

House Engrossed Senate Bill

FILED

KEN BENNETT
SECRETARY OF STATE

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CHAPTER 244

SENATE BILL 1206

AN ACT

AMENDING SECTIONS 9-462.01, 11-251, 11-254.06 AND 11-254.07, ARIZONA REVISED STATUTES; REPEALING TITLE 11, CHAPTER 6, ARTICLES 1 AND 2, ARIZONA REVISED STATUTES; RENUMBERING TITLE 11, CHAPTER 6, ARTICLES 3 AND 4, ARIZONA REVISED STATUTES, AS TITLE 11, CHAPTER 6, ARTICLES 5 AND 6, RESPECTIVELY; AMENDING TITLE 11, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING NEW ARTICLES 1, 2, 3 AND 4; AMENDING SECTIONS 11-866, 11-1101, 13-1422, 27-441, 27-442, 27-446, 27-447, 28-6705, 28-6713, 28-8481, 32-2181, 32-2183, 32-2197.08, 33-406 AND 33-422, ARIZONA REVISED STATUTES; AMENDING SECTION 34-201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, CHAPTER 101, SECTION 6; AMENDING SECTION 34-201, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 23 OF THIS ACT; REPEALING SECTION 34-201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, CHAPTER 101, SECTION 7; AMENDING SECTIONS 34-610, 37-132, 37-331.03, 40-360.53, 41-1512.02, 41-1519, 45-108, 45-108.01, 45-108.02, 45-108.03, 45-108.04, 45-576, 48-3609.01, 48-6414 AND 49-1273, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO COUNTY PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-462.01, Arizona Revised Statutes, is amended to
3 read:

4 9-462.01. Zoning regulations; public hearing; definitions

5 A. Pursuant to this article, the legislative body of any municipality
6 by ordinance may in order to conserve and promote the public health, safety
7 and general welfare:

8 1. Regulate the use of buildings, structures and land as between
9 agriculture, residence, industry, business and other purposes.

10 2. Regulate signs and billboards.

11 3. Regulate the location, height, bulk, number of stories and size of
12 buildings and structures, the size and use of lots, yards, courts and other
13 open spaces, the percentage of a lot which may be occupied by a building or
14 structure, access to incident solar energy and the intensity of land use.

15 4. Establish requirements for off-street parking and loading.

16 5. Establish and maintain building setback lines.

17 6. Create civic districts around civic centers, public parks, public
18 buildings or public grounds and establish regulations therefor.

19 7. Require as a condition of rezoning public dedication of
20 rights-of-way as streets, alleys, public ways, drainage and public utilities
21 as are reasonably required by or related to the effect of the rezoning.

22 8. Establish floodplain zoning districts and regulations to protect
23 life and property from the hazards of periodic inundation. Regulations may
24 include variable lot sizes, special grading or drainage requirements, or
25 other requirements deemed necessary for the public health, safety or general
26 welfare.

27 9. Establish special zoning districts or regulations for certain lands
28 characterized by adverse topography, adverse soils, subsidence of the earth,
29 high water table, lack of water or other natural or man-made hazards to life
30 or property. Regulations may include variable lot sizes, special grading or
31 drainage requirements, or other requirements deemed necessary for the public
32 health, safety or general welfare.

33 10. Establish districts of historical significance provided that:

34 (a) The ordinances may require that special permission be obtained for
35 any development within the district if the legislative body has adopted a
36 plan for the preservation of districts of historical significance which meets
37 the requirements of subdivision (b) of this paragraph, and the criteria
38 contained in the ordinance are consistent with the objectives set forth in
39 the plan.

40 (b) A plan for the preservation of districts of historical
41 significance shall identify districts of special historical significance,
42 state the objectives to be sought concerning the development or preservation
43 of sites, area and structures within the district, and formulate a program
44 for public action including the provision of public facilities and the

1 regulation of private development and demolition necessary to realize these
2 objectives.

3 (c) The ordinance establishing districts of historical significance
4 shall set forth standards necessary to preserve the historical character of
5 the area so designated.

6 (d) The ordinances may designate or authorize any committee,
7 commission, department or person to designate structures or sites of special
8 historical significance in accordance with criteria contained in the
9 ordinance, and no designation shall be made except after a public hearing
10 upon notice of the owners of record of the property so designated. The
11 ordinances may require that special permission be obtained for any
12 development respecting the structures or sites.

13 11. Establish age specific community zoning districts in which
14 residency is restricted to a head of a household or spouse who must be of a
15 specific age or older and in which minors are prohibited from living in the
16 home. Age specific community zoning districts shall not be overlaid over
17 property without the permission of all owners of property included as part of
18 the district unless all of the property in the district has been developed,
19 advertised and sold or rented under specific age restrictions. The
20 establishment of age specific community zoning districts is subject to all of
21 the public notice requirements and other procedures prescribed by this
22 article.

23 12. Establish procedures, methods and standards for the transfer of
24 development rights within its jurisdiction. Any proposed transfer of
25 development rights from the sending property or to the receiving property
26 shall be subject to the notice and hearing requirements of section 9-462.04
27 and shall be subject to the approval and consent of the property owners of
28 both the sending and receiving property. Before any transfer of development
29 rights, a municipality shall adopt an ordinance providing for:

30 (a) The issuance and recordation of the instruments necessary to sever
31 development rights from the sending property and to affix development rights
32 to the receiving property. These instruments shall be executed by the
33 affected property owners and lienholders.

34 (b) The preservation of the character of the sending property and
35 assurance that the prohibitions against the use and development of the
36 sending property shall bind the landowner and every successor in interest to
37 the landowner.

38 (c) The severance of transferable development rights from the sending
39 property and the delayed transfer of development rights to a receiving
40 property.

41 (d) The purchase, sale, exchange or other conveyance of transferable
42 development rights prior to the rights being affixed to a receiving property.

43 (e) A system for monitoring the severance, ownership, assignment and
44 transfer of transferable development rights.

1 (f) The right of a municipality to purchase development rights and to
2 hold them for resale.

3 (g) The right of a municipality at its discretion to enter into an
4 intergovernmental agreement with another municipality or a county for the
5 transfer of development rights between jurisdictions. The transfer shall
6 comply with this paragraph, except that if the sending property is located in
7 an unincorporated area of a county, the approval of the development rights to
8 be sent to a municipality shall comply with section ~~11-821.03~~ 11-817.

9 B. For the purposes prescribed in subsection A of this section, the
10 legislative body may divide a municipality, or portion of a municipality,
11 into zones of the number, shape and area it deems best suited to carry out
12 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

13 C. All zoning regulations shall be uniform for each class or kind of
14 building or use of land throughout each zone, but the regulations in one type
15 of zone may differ from those in other types of zones as follows:

16 1. Within individual zones, there may be uses permitted on a
17 conditional basis under which additional requirements must be met, including
18 requiring site plan review and approval by the planning agency. The
19 conditional uses are generally characterized by any of the following:

20 (a) Infrequency of use.

21 (b) High degree of traffic generation.

22 (c) Requirement of large land area.

23 2. Within residential zones, the regulations may permit modifications
24 to minimum yard lot area and height requirements.

25 D. To carry out the purposes of this article and articles 6 and 6.2 of
26 this chapter, the legislative body may adopt overlay zoning districts and
27 regulations applicable to particular buildings, structures and land within
28 individual zones. For the purposes of this subsection, "overlay zoning
29 district" means a special zoning district that includes regulations which
30 modify regulations in another zoning district with which the overlay zoning
31 district is combined. Overlay zoning districts and regulations shall be
32 adopted pursuant to section 9-462.04.

33 E. The legislative body may approve a change of zone conditioned upon
34 a schedule for development of the specific use or uses for which rezoning is
35 requested. If at the expiration of this period the property has not been
36 improved for the use for which it was conditionally approved, the legislative
37 body, after notification by certified mail to the owner and applicant who
38 requested the rezoning, shall schedule a public hearing to take
39 administrative action to extend, remove or determine compliance with the
40 schedule for development or take legislative action to cause the property to
41 revert to its former zoning classification.

42 F. All zoning and rezoning ordinances or regulations adopted under
43 this article shall be consistent with and conform to the adopted general plan
44 of the municipality, if any, as adopted under article 6 of this chapter. In
45 the case of uncertainty in construing or applying the conformity of any part

1 of a proposed rezoning ordinance to the adopted general plan of the
2 municipality, the ordinance shall be construed in a manner that will further
3 the implementation of, and not be contrary to, the goals, policies and
4 applicable elements of the general plan. A rezoning ordinance conforms with
5 the land use element of the general plan if it proposes land uses, densities
6 or intensities within the range of identified uses, densities and intensities
7 of the land use element of the general plan.

8 G. No regulation or ordinance under this section may prevent or
9 restrict agricultural composting on farmland that is five or more contiguous
10 acres and that meets the requirements of this subsection. An agricultural
11 composting operation shall notify in writing the legislative body of the city
12 or town and the nearest fire department of the location of the composting
13 operation. If the nearest fire department is located in a different city or
14 town from the agricultural composting operation, the agricultural composting
15 operation shall also notify in writing the fire department of the city or
16 town in which the operation is located. Agricultural composting is subject
17 to sections 3-112 and 49-141. Agricultural composting may not be conducted
18 within one thousand three hundred twenty feet of an existing residential use,
19 unless the operations are conducted on farmland or land leased in association
20 with farmland. Any disposal of manure shall comply with section 49-247. For
21 the purposes of this subsection:

22 1. "Agricultural composting" means the controlled biological
23 decomposition of organic solid waste under in-vessel anaerobic or aerobic
24 conditions where all or part of the materials are generated on the farmland
25 or will be used on the farmland associated with the agricultural composting
26 operation.

27 2. "Farmland" has the same meaning prescribed in section 3-111 and is
28 subject to regulation under section 49-247.

29 H. For the purposes of this section:

30 1. "Development rights" means the maximum development that would be
31 allowed on the sending property under any general or specific plan and local
32 zoning ordinance of a municipality in effect on the date the municipality
33 adopts an ordinance pursuant to subsection A, paragraph 12 of this section
34 respecting the permissible use, area, bulk or height of improvements made to
35 the lot or parcel. Development rights may be calculated and allocated in
36 accordance with factors including dwelling units, area, floor area, floor
37 area ratio, height limitations, traffic generation or any other criteria that
38 will quantify a value for the development rights in a manner that will carry
39 out the objectives of this section.

40 2. "Receiving property" means a lot or parcel within which development
41 rights are increased pursuant to a transfer of development rights. Receiving
42 property shall be appropriate and suitable for development and shall be
43 sufficient to accommodate the transferable development rights of the sending
44 property without substantial adverse environmental, economic or social impact
45 to the receiving property or to neighboring property.

1 3. "Sending property" means a lot or parcel with special
2 characteristics, including farmland, woodland, desert land, mountain land,
3 floodplain, natural habitats, recreation or parkland, including golf course
4 area, or land that has unique aesthetic, architectural or historic value that
5 a municipality desires to protect from future development.

6 4. "Transfer of development rights" means the process by which
7 development rights from a sending property are affixed to one or more
8 receiving properties.

9 Sec. 2. Section 11-251, Arizona Revised Statutes, is amended to read:
10 11-251. Powers of board

11 The board of supervisors, under such limitations and restrictions as
12 are prescribed by law, may:

13 1. Supervise the official conduct of all county officers and officers
14 of all districts and other subdivisions of the county charged with assessing,
15 collecting, safekeeping, managing or disbursing the public revenues, see that
16 such officers faithfully perform their duties and direct prosecutions for
17 delinquencies, and, when necessary, require the officers to renew their
18 official bonds, make reports and present their books and accounts for
19 inspection.

20 2. Divide the counties into such districts or precincts as required by
21 law, change them and create others as convenience requires.

22 3. Establish, abolish and change election precincts, appoint
23 inspectors and judges of elections, canvass election returns, declare the
24 result and issue certificates thereof.

25 4. Lay out, maintain, control and manage public roads, ferries and
26 bridges within the county and levy such tax for that purpose as may be
27 authorized by law.

28 5. Provide for the care and maintenance of the sick of the county,
29 erect and maintain hospitals for that purpose and, in its discretion, provide
30 a farm in connection with the county hospital and adopt ordinances for
31 working the farm.

32 6. Provide suitable rooms for county purposes.

33 7. Purchase, receive by donation or lease real or personal property
34 necessary for the use of the county prison and take care of, manage and
35 control the property, but no purchase of real property shall be made unless
36 the value has been previously estimated by three disinterested citizens of
37 the county, appointed by the board for that purpose, and no more than the
38 appraised value shall be paid for the property.

39 8. Cause to be erected and furnished a courthouse, jail and hospital
40 and such other buildings as necessary, and construct and establish a branch
41 jail, when necessary, at a point distant from the county seat.

42 9. Sell at public auction, after thirty days' previous notice given by
43 publication in a newspaper of the county, stating the time and place of the
44 auction, and convey to the highest bidder, for cash or contract of purchase
45 extending not more than ten years from the date of sale and upon such terms

1 and conditions and for such consideration as the board shall prescribe, any
2 property belonging to the county that the board deems advantageous for the
3 county to sell, or that the board deems unnecessary for use by the county,
4 and shall pay the proceeds thereof into the county treasury for use of the
5 county, except that personal property need not be sold but may be used as a
6 trade-in on the purchase of personal property when the board deems this
7 disposition of the personal property to be in the best interests of the
8 county. When the property for sale is real property, the board shall have
9 such property appraised by a qualified independent fee appraiser who has an
10 office located in this state. The appraiser shall establish a minimum price,
11 which shall not be less than ninety per cent of the appraised value. The
12 notice regarding the sale of real property shall be published in the county
13 where the property is situated and may be published in one or more other
14 counties, and shall contain, among other things, the appraised value, the
15 minimum acceptable sale price, and the common and legal description of the
16 real property. Notwithstanding the requirement for a sale at public auction
17 prescribed in this paragraph, a county, with unanimous consent of the board,
18 without a public auction, may sell or lease any county property to any other
19 duly constituted governmental entity, including the state, cities, towns and
20 other counties. A county, with unanimous consent of the board, ~~AND~~ without
21 public auction, may grant an easement on county property for public purposes
22 to a utility as defined in section 40-491. A county, with unanimous consent
23 of the board, without public auction, may sell or lease any county property
24 for a specific use to any solely charitable, social or benevolent nonprofit
25 organization incorporated or operating in this state. A county may dispose
26 of surplus equipment and materials that have little or no value or that are
27 unauctionable in any manner authorized by the board.

28 10. Examine and exhibit the accounts of all officers having the care,
29 management, collection or disbursement of money belonging to the county or
30 appropriated by law or otherwise for the use and benefit of the county.

31 11. Examine, settle and allow all accounts legally chargeable against
32 the county, order warrants to be drawn on the county treasurer for that
33 purpose and provide for issuing the warrants.

34 12. Levy such tax annually on the taxable property of the county as may
35 be necessary to defray the general current expenses thereof, including
36 salaries otherwise unprovided for, and levy such other taxes as are required
37 to be levied by law.

38 13. Equalize assessments.

39 14. Direct and control the prosecution and defense of all actions to
40 which the county is a party, and compromise them.

41 15. Insure the county buildings in the name of and for the benefit of
42 the county.

43 16. Fill by appointment all vacancies occurring in county or precinct
44 offices.

1 17. Adopt provisions necessary to preserve the health of the county,
2 and provide for the expenses thereof.

3 18. With the approval of the department of health services, contract
4 with any qualified person to provide all or part of the health services,
5 funded through the department of health services with federal or state
6 monies, that the board in its discretion extends to residents of the county.

7 19. Contract for county printing and advertising, and provide books and
8 stationery for county officers.

9 20. Provide for rebinding county records, or, if necessary, the
10 transcribing of county records.

11 21. Make and enforce necessary rules and regulations for the government
12 of its body, the preservation of order and the transaction of business.

13 22. Adopt a seal for the board, a description and impression of which
14 shall be filed by the clerk in the office of the county recorder and the
15 secretary of state.

16 23. Establish, maintain and conduct or aid in establishing, maintaining
17 and conducting public aviation fields, purchase, receive by donation or lease
18 any property necessary for that purpose, lease, at a nominal rental if
19 desired, sell such aviation fields or property to the United States or any
20 department, or sell or lease such aviation fields to a city, exchange lands
21 acquired pursuant to this section for other lands, or act in conjunction with
22 the United States in maintaining, managing and conducting all such property.
23 If any such property or part of that property is not needed for these
24 purposes, it shall be sold by the board and the proceeds shall be paid into
25 the general fund of the county.

26 24. Acquire and hold property for the use of county fairs, and conduct,
27 take care of and manage them.

28 25. Authorize the sheriff to offer a reward, not exceeding ten thousand
29 dollars in one case, for information leading to the arrest and conviction of
30 persons charged with crime.

31 26. Contract for the transportation of insane persons to the state
32 hospital or direct the sheriff to transport such persons. The county is
33 responsible for such expense to the extent the expense is not covered by any
34 third party payor.

35 27. Provide for the reasonable expenses of burial for deceased
36 indigents as provided in section 36-831 and maintain a permanent register of
37 deceased indigents, including name, age and date of death, and when burial
38 occurs, the board shall mark the grave with a permanent marker giving the
39 name, age, and date of birth, if known.

40 28. Sell or grant to the United States the title or interest of the
41 county in any toll road or toll train in or partly within a national park,
42 upon such terms and consideration as may be agreed upon by the board and the
43 secretary of the interior of the United States.

44 29. Enter into agreements for acquiring rights-of-way, construction,
45 reconstruction or maintenance of highways in their respective counties,

1 including highways that pass through Indian reservations, with the government
2 of the United States, acting through its duly authorized officers or agents
3 pursuant to any act of Congress, except that the governing body of any Indian
4 tribe whose lands are affected must consent to the use of its land, and any
5 such agreements entered into before June 26, 1952 are validated and
6 confirmed.

7 30. Do and perform all other acts and things necessary to the full
8 discharge of its duties as the legislative authority of the county
9 government, including receiving and accepting payment of monies by credit
10 card or debit card, or both. Any fees or costs incurred by the use of the
11 credit or debit card shall be paid by the person tendering payment unless the
12 charging entity determines that the financial benefits of accepting credit
13 cards or debit cards exceeds the additional processing fees.

14 31. Make and enforce all local, police, sanitary and other regulations
15 not in conflict with general law.

16 32. Budget for funds for foster home care during the school week for
17 mentally retarded and otherwise handicapped children who reside within the
18 county and attend a school for the handicapped in a city or town within such
19 county.

20 33. Do and perform all acts necessary to enable the county to
21 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.
22 508), as amended.

23 34. Provide a plan or plans for its employees that provide tax deferred
24 annuity and deferred compensation plans as authorized pursuant to title 26,
25 United States Code. Such plans shall allow voluntary participation by all
26 employees of the county. Participating employees shall authorize the board
27 to make reductions in their remuneration as provided in an executed deferred
28 compensation agreement.

29 35. Adopt and enforce standards for shielding and filtration of
30 commercial or public outdoor portable or permanent light fixtures in
31 proximity to astronomical or meteorological laboratories.

32 36. Subject to the prohibitions, restrictions and limitations as set
33 forth in section ~~11-830~~ 11-812, adopt and enforce standards for excavation,
34 landfill and grading to prevent unnecessary loss from erosion, flooding and
35 landslides.

36 37. Make and enforce necessary ordinances for the operation and
37 licensing of any establishment not in the limits of an incorporated city or
38 town in which is carried on the business of providing baths, showers or other
39 forms of hydrotherapy or any service of manual massage of the human body.

40 38. Provide pecuniary compensation as salary or wages for overtime work
41 performed by county employees, including those employees covered by title 23,
42 chapter 2, article 9. In so providing, the board may establish salary and
43 wage plans incorporating classifications and conditions prescribed by the
44 federal fair labor standards act.

1 39. Establish, maintain and operate facilities that provide for
2 physical evaluation, diagnosis and treatment of patients and that do not keep
3 patients overnight as bed patients or treat patients under general
4 anesthesia.

5 40. Enact ordinances under its police authority prescribing reasonable
6 curfews in the entire unincorporated area or any area less than the entire
7 unincorporated area of the county for minors and fines not to exceed the fine
8 for a petty offense for violation of such ordinances. Nothing in this
9 paragraph shall be construed to require a request from an association or a
10 majority of the residents of an area before the board may enact an ordinance
11 applicable to the entire or any portion of the unincorporated area. An
12 ordinance enacted pursuant to this paragraph shall provide that a minor is
13 not violating a curfew if the minor is accompanied by a parent, a guardian or
14 an adult having supervisory custody, is on an emergency errand or has been
15 specifically directed to the location on reasonable, legitimate business or
16 some other activity by the parent, guardian or adult having supervisory
17 custody. If no curfew ordinance is applicable to a particular unincorporated
18 area of the county, the board may adopt a curfew ordinance on the request or
19 petition of either:

20 (a) A homeowners' association that represents a majority of the
21 homeowners in the area covered by the association and to which the curfew
22 would apply.

23 (b) A majority of the residents of the area to which the curfew would
24 apply.

25 41. Lease or sublease personal property owned by the county to other
26 political subdivisions of this state to be used for a public purpose.

27 42. In addition to the agreements authorized by section 11-651, enter
28 into long-term agreements for the purchase of personal property, provided
29 that the board may cancel any such agreement at the end of a fiscal year, at
30 which time the seller may repossess the property and the agreement shall be
31 deemed terminated.

32 43. Make and enforce necessary ordinances not in conflict with the laws
33 of this state to regulate off-road recreational motor vehicles that are
34 operated within the county on public lands without lawful authority or on
35 private lands without the consent of the lawful owner or that generate air
36 pollution. For the purposes of this paragraph, "off-road recreational motor
37 vehicle" means three and four wheel vehicles manufactured for recreational
38 nonhighway all terrain travel.

39 44. Acquire land for roads, drainage ways and other public purposes by
40 exchange without public auction, except that notice shall be published thirty
41 days before the exchange, listing the property ownership and descriptions.

42 45. Purchase real property for public purposes, provided that final
43 payment shall be made not later than five years after the date of purchase.

44 46. Lease-purchase real property and improvements for real property for
45 public purposes, provided that final payment shall be made not later than

1 twenty-five years after the date of purchase. Any increase in the final
2 payment date from fifteen years up to the maximum of twenty-five years shall
3 be made only on unanimous approval by the board of supervisors.

4 47. Make and enforce ordinances for the protection and disposition of
5 domestic animals subject to inhumane, unhealthful or dangerous conditions or
6 circumstances provided that nothing in this paragraph limits or restricts the
7 authority granted to incorporated cities and towns or counties pursuant to
8 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
9 restrict or limit the authority of the game and fish commission to regulate
10 the taking of wildlife. For the purposes of this paragraph, "domestic
11 animal" means an animal kept as a pet and not primarily for economic
12 purposes.

13 48. If a part of a parcel of land is to be taken for roads, drainage,
14 flood control or other public purposes and the board and the affected
15 property owner determine that the remainder will be left in such a condition
16 as to give rise to a claim or litigation concerning severance or other
17 damage, acquire the whole parcel by purchase, donation, dedication, exchange,
18 condemnation or other lawful means, and the remainder may be sold or
19 exchanged for other properties needed for any public purpose.

20 49. Make and enforce necessary rules providing for the reimbursement of
21 travel and subsistence expenses of members of county boards, commissions and
22 advisory committees when acting in the performance of their duties, if the
23 board, commission or advisory committee is authorized or required by federal
24 or state law or county ordinance, and the members serve without compensation.

25 50. Provide a plan or plans for county employee benefits that allow for
26 participation in a cafeteria plan that meets the requirements of the United
27 States internal revenue code of 1986.

28 51. Provide for fringe benefits for county employees, including sick
29 leave, personal leave, vacation and holiday pay and jury duty pay.

30 52. Make and enforce ordinances that are more restrictive than state
31 requirements to reduce or encourage the reduction of carbon monoxide and
32 ozone levels, provided an ordinance does not establish a standard for
33 vehicular emissions, including ordinances to reduce or encourage the
34 reduction of the commuter use of motor vehicles by employees of the county
35 and employees whose place of employment is in unincorporated areas of the
36 county.

37 53. Make and enforce ordinances to provide for the reimbursement of up
38 to one hundred per cent of the cost to county employees of public bus or van
39 pool transportation to and from their place of employment.

40 54. Lease for public purposes any real property, improvements for real
41 property and personal property under the same terms and conditions, to the
42 extent applicable, as are specified in sections 11-651 and 11-653 for
43 lease-purchases.

44 55. Enact ordinances prescribing regulation of alarm systems and
45 providing for civil penalties to reduce the incidence of false alarms at

1 business and residential structures relating to burglary, robbery, fire and
2 other emergencies not within the limits of an incorporated city or town.

3 56. In addition to paragraph 9 of this section, and notwithstanding
4 section 23-504, sell or dispose of, at no less than fair market value, county
5 personal property that the board deems no longer useful or necessary through
6 a retail outlet or to another government entity if the personal property has
7 a fair market value of no more than one thousand dollars, or by retail sale
8 or private bid, if the personal property has a fair market value of no more
9 than fifteen thousand dollars. Notice of sales in excess of one thousand
10 dollars shall include a description and sale price of each item and shall be
11 published in a newspaper of general circulation in the county, and for thirty
12 days after notice other bids may be submitted that exceed the sale price by
13 at least five per cent. The county shall select the highest bid received at
14 the end of the thirty day period.

15 57. Sell services, souvenirs, sundry items or informational
16 publications that are uniquely prepared for use by the public and by
17 employees and license and sell information systems and intellectual property
18 developed from county resources that the county is not obligated to provide
19 as a public record.

20 58. On unanimous consent of the board of supervisors, license, lease or
21 sell any county property pursuant to paragraphs 56 and 57 of this section at
22 less than fair market value to any other governmental entity, including this
23 state, cities, towns, public improvement districts or other counties within
24 or outside of this state, or for a specific purpose to any charitable, social
25 or benevolent nonprofit organization incorporated or operating in this state.

26 59. On unanimous consent of the board of supervisors, provide technical
27 assistance and related services to a fire district pursuant to an
28 intergovernmental agreement.

29 60. Adopt contracting procedures for the operation of a county health
30 system pursuant to section 11-291. Before the adoption of contracting
31 procedures the board shall hold a public hearing. The board shall publish
32 one notification in a newspaper of general circulation in the county seat at
33 least fifteen days before the hearing.

34 61. Enter into an intergovernmental agreement pursuant to chapter 7,
35 article 3 of this title for a city or town to provide emergency fire or
36 emergency medical services pursuant to section 9-500.23 to a county island as
37 defined in section 11-251.12. The board may charge the owners of record in
38 the county island a fee to cover the cost of an intergovernmental agreement
39 that provides fire and emergency medical services.

40 62. In counties that employ or have designated an animal control county
41 enforcement agent pursuant to section 11-1005, enter into agreements with
42 foundations or charitable organizations to solicit donations, property or
43 services, excluding enforcement or inspection services, for use by the county
44 enforcement agent solely to perform nonmandated services and to fund capital
45 improvements for county animal control, subject to annual financial and

1 performance audits by an independent party as designated by the county board
2 of supervisors. For the purposes of this paragraph, nonmandated services are
3 limited to low cost spay and neuter services, public education and outreach
4 efforts, pet adoption efforts, care for pets that are victims of cruelty or
5 neglect and support for volunteer programs.

6 63. Adopt and provide for the enforcement of ordinances prohibiting
7 open fires and campfires on designated lands in the unincorporated areas of
8 the county when a determination of emergency is issued by the county
9 emergency management officer and the board deems it necessary to protect
10 public health and safety on those lands.

11 64. Fix the amount of license fees to be paid by any person, firm,
12 corporation or association for carrying on any game or amusement business in
13 unincorporated areas of the county and prescribe the method of collection or
14 payment of those fees, for a stated period in advance, and fix penalties for
15 failure to comply by fine. Nothing in this article shall be construed as
16 authorizing any county to require an occupational license or fee for any
17 activity if state law precludes requiring such a license or fee.

18 65. Adopt and enforce ordinances for the prevention, abatement and
19 removal of graffiti, providing that any restrictions on the retail display of
20 potential graffiti tools be limited to any of the following, as determined by
21 the retail business:

22 (a) In a place that is in the line of sight of a cashier or in the
23 line of sight from a work station normally continuously occupied during
24 business hours.

25 (b) In a manner that makes the product accessible to a patron of the
26 business establishment only with the assistance of an employee of the
27 establishment.

28 (c) In an area electronically protected, or viewed by surveillance
29 equipment that is monitored, during business hours.

30 66. Adopt ordinances and fees related to the implementation of a local
31 stormwater quality program pursuant to title 49, chapter 2, article 11.

32 Sec. 3. Section 11-254.06, Arizona Revised Statutes, is amended to
33 read:

34 11-254.06. County infill incentive districts

35 A. The board of supervisors may designate an infill incentive district
36 in any unincorporated area of the county that meets at least three of the
37 following requirements:

38 1. There is a large number of vacant, older or dilapidated structures.

39 2. There is a large number of vacant or underused parcels of property
40 that are of small or inappropriate sizes or that are environmentally
41 contaminated, that are owned by different owners and that are located in an
42 area that lacks the presence of development and investment activity compared
43 to other areas in the county.

1 3. There is a large number of parcels of property or buildings where
2 nuisances exist or occur.

3 4. There is a high occurrence of crime.

4 5. There is a continuing decline in population.

5 B. Before establishing an infill incentive district, the board of
6 supervisors shall:

7 ' 1. Identify the boundaries of the proposed district.

8 2. Notify the owners of private property in the proposed district and
9 property managers of federal and state land in the proposed district by first
10 class mail sent to the addresses on the most recent tax roll. The notice
11 shall be mailed at least fifteen days before the hearing held pursuant to
12 paragraph 4 of this subsection.

13 3. Publish notice of the proposed district in a newspaper of general
14 circulation in the county once each week for two consecutive weeks before the
15 hearing held pursuant to paragraph 4 of this subsection.

16 4. Hold at least one public hearing in the county supervisorial
17 district in which the proposed district is located to provide information and
18 receive public comments.

19 C. If, after the hearing, it appears to the board that the public
20 interest, convenience and welfare will be served by establishing ~~a county~~ AN
21 infill INCENTIVE district, the board may establish the district by adopting a
22 resolution stating the reasons for establishing the district, the specific
23 conditions described in subsection A of this section that qualify the area
24 ~~for~~ AS a district and provisions for the orderly and beneficial redevelopment
25 of the district.

26 D. If the board of supervisors establishes an infill incentive
27 district, it shall adopt an infill incentive plan to encourage redevelopment
28 in the district. The plan shall emphasize voluntary incentives, including,
29 if appropriate, continuing traditional rural and agricultural enterprises.
30 The plan may include:

31 1. Expedited zoning or rezoning procedures.

32 2. Expedited processing of plans and proposals.

33 3. Waivers of county and county improvement district fees and
34 assessments for development activities.

35 4. Waivers of development standards and procedural requirements.

36 E. The infill incentive plan shall not impair the ability of utilities
37 to provide electricity, water, natural gas or other services in accordance
38 with health, safety and industry standards, including meeting electric
39 service load growth demand by customers.

40 F. Infill incentives established pursuant to this section shall not be
41 in violation of the requirements of the county comprehensive plan pursuant to
42 section ~~11-821~~ 11-804.

1 Sec. 4. Section 11-254.07, Arizona Revised Statutes, is amended to
2 read:

3 11-254.07. Renewable energy incentive districts; definition

4 A. The board of supervisors may designate a renewable energy incentive
5 district in any unincorporated area of the county if all of the following
6 apply:

7 1. The proposed district consists of vacant or underused parcel or
8 parcels of property, or ANY other parcel or parcels of property the board of
9 supervisors deems suitable for renewable energy equipment, that are
10 appropriate sizes for the construction and operation of renewable energy
11 equipment. The board of supervisors may designate large portions of
12 unincorporated county land or noncontiguous portions of land as a renewable
13 energy INCENTIVE district or districts.

14 2. The proposed district is located within an area of the county so
15 that the construction and operation of renewable energy equipment would not
16 be incompatible with other uses of property in the area considering factors
17 relating to the construction and operation of renewable energy equipment
18 including:

19 (a) The ability to adequately buffer the district from surrounding
20 incompatible uses.

21 (b) The noise level emanating from the district alone and in relation
22 to ambient noise levels at the perimeter of the property falling within the
23 proposed district and relative to other adjacent lands.

24 (c) The extent to which the district would be located in proximity to
25 existing transportation and electrical transmission corridors.

26 (d) Compatibility with commercial and military air space requirements.

27 3. The board of supervisors has evaluated the extent to which the
28 proposed district is consistent with the existing county comprehensive plan
29 and has determined that the proposed district does not conflict with the
30 plan. The board of supervisors may determine that the district is not a
31 major amendment to the county comprehensive plan pursuant to section ~~11-824~~
32 11-805.

33 B. Before establishing a renewable energy incentive district, the
34 board of supervisors shall:

35 1. Identify the boundaries of the proposed district.

36 2. Notify the owners of private property in the proposed district,
37 property managers of federal and state land in the proposed district and all
38 property owners with land within one mile of the outer perimeter of the
39 proposed district by first class mail sent to the addresses on the most
40 recent tax roll. The notice shall be mailed at least fifteen days before the
41 hearing held pursuant to paragraph 4 of this subsection.

42 3. Publish notice of the proposed district in a newspaper of general
43 circulation in the county once each week for two consecutive weeks before the
44 hearing held pursuant to paragraph 4 of this subsection.

1 4. Hold at least one public hearing in the county supervisorial
2 district in which the proposed district is located to provide information and
3 receive public comments.

4 C. If, after the hearing, it appears to the board of supervisors that
5 the public interest, convenience and welfare will be served by establishing a
6 renewable energy incentive district, the board of supervisors may establish
7 the district by adopting a resolution stating the reasons for establishing
8 the district, the specific conditions described in subsection A of this
9 section that qualify the area for a district and provisions for the orderly
10 and beneficial redevelopment of the district.

11 D. If the board of supervisors establishes a renewable energy
12 incentive district, it shall adopt a renewable energy incentive plan to
13 encourage the construction and operation of renewable energy equipment in the
14 district. The plan may include:

- 15 1. Expedited zoning or rezoning procedures.
- 16 2. Expedited processing of plans, proposals and permits.
- 17 3. Waivers or abatement of county zoning fees, processing fees, and
18 county improvement district fees and assessments for development activities.
- 19 4. Waiver or abatement of development standards and procedural
20 requirements.

21 E. For the purposes of this section, "renewable energy equipment" has
22 the same meaning as prescribed in section 42-14155.

23 Sec. 5. Repeal

24 Title 11, chapter 6, articles 1 and 2, Arizona Revised Statutes, are
25 repealed.

26 Sec. 6. Renumber

27 Title 11, chapter 6, articles 3 and 4, Arizona Revised Statutes, are
28 renumbered as title 11, chapter 6, articles 5 and 6, respectively.

29 Sec. 7. Title 11, chapter 6, Arizona Revised Statutes, is amended by
30 adding new articles 1, 2, 3 and 4, to read:

31 ARTICLE 1. COUNTY PLANNING

32 11-801. Definitions

33 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

34 1. "AREA OF JURISDICTION" MEANS THAT PART OF THE COUNTY OUTSIDE THE
35 CORPORATE LIMITS OF ANY MUNICIPALITY.

36 2. "BOARD" MEANS THE BOARD OF SUPERVISORS.

37 3. "COMMISSION" MEANS THE COUNTY PLANNING AND ZONING COMMISSION.

38 4. "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE HELD IN TRUST BY THE
39 UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF INDIAN TRIBES BY TREATY,
40 LAW OR EXECUTIVE ORDER AND THAT ARE CURRENTLY RECOGNIZED AS INDIAN
41 RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

42 5. "INSPECTOR" MEANS THE COUNTY ZONING INSPECTOR.

43 6. "NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT" MEANS A DAILY
44 OR WEEKLY NEWSPAPER IF ANY IS PUBLISHED IN THE COUNTY SEAT.

1 7. "REZONING" MEANS A CHANGE IN THE ZONING ORDINANCE CHANGING THE
2 ZONING DISTRICT BOUNDARIES WITHIN AN AREA PREVIOUSLY ZONED.

3 8. "ZONING DISTRICT" MEANS ANY PORTION OF A COUNTY IN WHICH THE SAME
4 SET OF ZONING REGULATIONS APPLIES.

5 9. "ZONING ORDINANCE" MEANS AN ORDINANCE THAT IS ADOPTED BY THE BOARD
6 OF SUPERVISORS AND THAT CONTAINS ZONING REGULATIONS TOGETHER WITH A MAP
7 SETTING FORTH THE PRECISE BOUNDARIES OF ZONING DISTRICTS WITHIN WHICH THE
8 VARIOUS ZONING REGULATIONS ARE EFFECTIVE.

9 10. "ZONING REGULATIONS" MEANS PROVISIONS THAT GOVERN THE USE OF LAND
10 OR BUILDINGS, OR BOTH, THE HEIGHT AND LOCATION OF BUILDINGS, THE SIZE OF
11 YARDS, COURTS AND OPEN SPACES, THE ESTABLISHMENT OF SETBACK LINES AND SUCH
12 OTHER MATTERS AS MAY OTHERWISE BE AUTHORIZED UNDER THIS CHAPTER AND THAT THE
13 BOARD DEEMS SUITABLE AND PROPER.

14 11. "ZONING REGULATIONS AMENDMENT" MEANS A CHANGE IN THE ZONING
15 ORDINANCE THAT MODIFIES, ADDS TO, TRANSFERS OR REPEALS ONE OR MORE ZONING
16 REGULATIONS OR THAT ADDS ONE OR MORE ZONING REGULATIONS.

17 11-802. County planning and zoning commissions

18 A. THE BOARD OF SUPERVISORS OF A COUNTY, IN ORDER TO CONSERVE AND
19 PROMOTE THE PUBLIC HEALTH, SAFETY, CONVENIENCE AND GENERAL WELFARE AND
20 PURSUANT TO THIS CHAPTER, SHALL PLAN AND PROVIDE FOR THE FUTURE GROWTH AND
21 IMPROVEMENT OF ITS AREA OF JURISDICTION, COORDINATE ALL PUBLIC IMPROVEMENTS
22 PURSUANT TO THE PLAN, FORM A PLANNING AND ZONING COMMISSION TO CONSULT WITH
23 AND ADVISE IT REGARDING MATTERS OF PLANNING, ZONING AND SUBDIVISION PLATTING
24 AND, IN THE MANNER PROVIDED IN THIS CHAPTER, ADOPT AND ENFORCE THOSE RULES,
25 REGULATIONS, ORDINANCES AND PLANS AS MAY APPLY TO THE DEVELOPMENT OF ITS AREA
26 OF JURISDICTION.

27 B. THE COMMISSION SHALL ACT IN AN ADVISORY CAPACITY TO THE BOARD AND
28 MAY OR, IF REQUESTED BY THE BOARD, SHALL MAKE A REPORT OR RECOMMENDATION IN
29 CONNECTION WITH ANY MATTER RELATING TO THE DEVELOPMENT OF THE COUNTY UNDER
30 THE JURISDICTION OF THE BOARD. THE COMMISSION SHALL MAKE THOSE
31 INVESTIGATIONS, MAPS, REPORTS AND RECOMMENDATIONS IN CONNECTION WITH THOSE
32 INVESTIGATIONS, MAPS AND REPORTS AS SEEM DESIRABLE WITHIN THE LIMITS OF THE
33 MONIES AVAILABLE.

34 C. IN THE COUNTIES HAVING THREE SUPERVISORIAL DISTRICTS, EACH COUNTY
35 PLANNING AND ZONING COMMISSION SHALL CONSIST OF NINE MEMBERS WHO SHALL BE
36 QUALIFIED ELECTORS OF THE COUNTY. THREE MEMBERS SHALL BE APPOINTED FROM EACH
37 SUPERVISORIAL DISTRICT BY THE SUPERVISOR FROM THAT DISTRICT, AND NOT MORE
38 THAN ONE OF THE THREE MAY BE A RESIDENT OF AN INCORPORATED MUNICIPALITY.
39 MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION EXCEPT FOR
40 REASONABLE TRAVEL EXPENSES.

41 D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, IN THE COUNTIES
42 HAVING FIVE SUPERVISORIAL DISTRICTS, EACH COUNTY PLANNING AND ZONING
43 COMMISSION SHALL CONSIST OF TEN MEMBERS WHO SHALL BE QUALIFIED ELECTORS OF
44 THE COUNTY. TWO MEMBERS SHALL BE APPOINTED FROM EACH SUPERVISORIAL DISTRICT
45 BY THE SUPERVISOR FROM THAT DISTRICT. MEMBERS SHALL BE RESIDENTS OF THE

1 DISTRICT FROM WHICH THEY ARE APPOINTED. MEMBERS OF THE COMMISSION SHALL
2 SERVE WITHOUT COMPENSATION EXCEPT FOR REASONABLE TRAVEL EXPENSES.

3 E. IF ANY SUPERVISORIAL DISTRICT IS AT LEAST NINETY PER CENT INDIAN
4 RESERVATION AND AT LEAST NINETY PER CENT OF THE DISTRICT IS NOT SUBJECT TO
5 COUNTY ZONING REGULATIONS, THE SUPERVISOR FROM THE DISTRICT MAY APPOINT SOME
6 OR ALL OF THE MEMBERS TO THE COMMISSION FROM ANY SUPERVISORIAL DISTRICT IN
7 THE COUNTY IF THERE IS NO APPOINTEE WHO IS WILLING TO SERVE WITHIN THE
8 SUPERVISORIAL DISTRICT. THESE APPOINTMENTS ARE SUBJECT TO THE LIMITATIONS ON
9 RESIDENCY REQUIRED BY SUBSECTIONS C AND D OF THIS SECTION. MEMBERS APPOINTED
10 TO THE COMMISSION PURSUANT TO THIS SUBSECTION REQUIRE THE APPROVAL OF THE
11 BOARD.

12 F. IN COUNTIES WITH A POPULATION OF LESS THAN ONE HUNDRED SEVENTY-NINE
13 THOUSAND PERSONS, AN ALTERNATE MEMBER MAY BE APPOINTED BY THE APPOINTING
14 SUPERVISOR FOR EACH COMMISSION MEMBER APPOINTED PURSUANT TO SUBSECTIONS C, D
15 AND E OF THIS SECTION TO SERVE IN THE ABSENCE OF THAT MEMBER. ALTERNATE
16 MEMBERS MAY BE APPOINTED FROM ANY SUPERVISORIAL DISTRICT IN THE COUNTY.
17 DURING ANY MEETING OF THE COMMISSION, IF THE REGULARLY APPOINTED MEMBER
18 BECOMES AVAILABLE, THE ALTERNATE MEMBER SHALL CONCLUDE ANY ACTION ON THE
19 AGENDA ITEM UNDER CONSIDERATION AND THE REGULARLY APPOINTED MEMBER SHALL BE
20 SEATED FOR THE REMAINING ITEMS.

21 G. THE TERMS OF THE MEMBERS OF THE COMMISSIONS SHALL BE FOR FOUR YEARS
22 EXCEPT FOR THOSE INITIALLY APPOINTED. OF THOSE MEMBERS INITIALLY APPOINTED
23 PURSUANT TO SUBSECTION C OF THIS SECTION, FIVE MEMBERS SHALL BE APPOINTED TO
24 A TWO YEAR TERM AND FOUR MEMBERS SHALL BE APPOINTED TO A FOUR YEAR TERM. OF
25 THOSE MEMBERS INITIALLY APPOINTED PURSUANT TO SUBSECTION D OF THIS SECTION,
26 FIVE MEMBERS SHALL BE APPOINTED TO A TWO YEAR TERM AND FIVE MEMBERS SHALL BE
27 APPOINTED TO A FOUR YEAR TERM. THEREAFTER, EACH TERM SHALL BE FOUR YEARS.
28 IF A VACANCY OCCURS OTHERWISE THAN BY EXPIRATION OF TERM, THE VACANCY SHALL
29 BE FILLED BY APPOINTMENT FOR THE UNEXPIRED PORTION OF THE TERM. THE BOARD
30 MAY REMOVE MEMBERS OF THE COMMISSION FOR CAUSE.

31 H. ON A CONVERSION FROM THREE TO FIVE SUPERVISORIAL DISTRICTS PURSUANT
32 TO SECTION 11-212, THE BOARD OF SUPERVISORS, ON EXPIRATION OF THE TERMS OF
33 MEMBERS OF THE COMMISSION SERVING ON THE DATE OF THE CONVERSION, SHALL MAKE
34 THOSE APPOINTMENTS TO FILL THE VACANCIES TO CONFORM TO SUBSECTION D OF THIS
35 SECTION AS SOON AS IS PRACTICABLE.

36 I. THE COUNTY ASSESSOR, COUNTY ENGINEER, COUNTY HEALTH OFFICER AND
37 COUNTY ATTORNEY SHALL SERVE IN AN ADVISORY CAPACITY TO THE COMMISSION AND TO
38 THE BOARDS OF ADJUSTMENT.

39 J. THE COMMISSION SHALL:

40 1. ELECT A CHAIRPERSON FROM AMONG ITS MEMBERS FOR A TERM OF ONE YEAR
41 AND THOSE OTHER OFFICERS AS IT DETERMINES.

42 2. BY RESOLUTION FIX THE TIME AND PLACE WITHIN THE DISTRICT OF REGULAR
43 MEETINGS, HOLD AT LEAST ONE REGULAR MEETING EACH MONTH AND HOLD ADDITIONAL
44 MEETINGS AS THE CHAIRPERSON OR A MAJORITY OF THE COMMISSION DEEMS NECESSARY.

1 3. ADOPT RULES FOR THE TRANSACTION OF BUSINESS AND KEEP A RECORD OF
2 ITS RESOLUTIONS, TRANSACTIONS, FINDINGS AND DETERMINATIONS, WHICH RECORD
3 SHALL BE A PUBLIC RECORD AND BE OPEN TO PUBLIC INSPECTION.

4 4. TRANSMIT ALL OF ITS RECOMMENDATIONS, DECISIONS, FINDINGS, REPORTS
5 AND OFFICIAL ACTIONS, REGARDLESS OF VOTE, TO THE BOARD OF SUPERVISORS.

6 K. A MAJORITY OF THE COMMISSION CONSTITUTES A QUORUM FOR THE
7 TRANSACTION OF BUSINESS AND A MAJORITY VOTE OF THE QUORUM IS REQUIRED FOR ANY
8 OFFICIAL ACTION.

9 11-803. Consultants; employees; use of services by city or town

10 A. THE BOARD MAY CONTRACT WITH CONSULTANTS FOR SERVICES AS MAY BE
11 REQUIRED, EMPLOY THOSE PERSONS AND PROVIDE MONIES AS IT DEEMS NECESSARY TO
12 CARRY ON THE WORK OF THE COMMISSION AND THE ENFORCEMENT OF THIS CHAPTER.

13 B. IF A CONSULTANT OR EMPLOYEES, OR BOTH, ARE PROVIDED TO CARRY ON
14 COUNTY PLANNING WORK AS PRESCRIBED IN THIS CHAPTER, THE REGULARLY APPOINTED
15 PLANNING AND ZONING COMMISSION OF AN INCORPORATED CITY OR TOWN WITHIN THE
16 COUNTY MAY REQUEST THE SERVICES OF THE CONSULTANT OR EMPLOYEES, OR BOTH, FOR
17 CONSULTATION AND ADVICE, INCLUDING THE PREPARATION OR REVIEW OF COMPREHENSIVE
18 PLANS, ZONING ORDINANCES AND SUBDIVISION REGULATIONS WITHIN THE BOUNDARIES OF
19 THE INCORPORATED CITY OR TOWN. THE BOARD, IF IT DEEMS IT PROPER AFTER
20 CONSULTATION WITH THE COMMISSION, MAY MAKE THOSE SERVICES AVAILABLE AS
21 MUTUALLY AGREED TO BY THE BOARD, COMMISSION AND THE AFFECTED CITY OR TOWN.

22 11-804. Comprehensive plan; contents

23 A. THE COMMISSION SHALL FORMULATE AND THE BOARD OF SUPERVISORS SHALL
24 ADOPT OR READOPT A LONG-TERM COMPREHENSIVE PLAN FOR THE DEVELOPMENT OF THE
25 AREA OF JURISDICTION IN THE MANNER PRESCRIBED BY THIS ARTICLE. THE
26 COMPREHENSIVE PLAN, WITH THE ACCOMPANYING MAPS, PLATS, CHARTS AND DESCRIPTIVE
27 MATTER, SHALL SHOW THE COMMISSION'S RECOMMENDATIONS FOR THE DEVELOPMENT OF
28 THE AREA OF JURISDICTION. THE COMPREHENSIVE PLAN SHALL BE MADE WITH THE
29 GENERAL PURPOSE OF GUIDING AND ACCOMPLISHING A COORDINATED, ADJUSTED AND
30 HARMONIOUS DEVELOPMENT OF THE AREA OF JURISDICTION PURSUANT TO THE PRESENT
31 AND FUTURE NEEDS OF THE COUNTY. THE COMPREHENSIVE PLAN SHALL BE DEVELOPED SO
32 AS TO CONSERVE THE NATURAL RESOURCES OF THE COUNTY, TO ENSURE EFFICIENT
33 EXPENDITURE OF PUBLIC MONIES AND TO PROMOTE THE HEALTH, SAFETY, CONVENIENCE
34 AND GENERAL WELFARE OF THE PUBLIC. THE COMPREHENSIVE PLAN MAY INCLUDE
35 STUDIES AND RECOMMENDATIONS RELATIVE TO THE LOCATION, CHARACTER AND EXTENT OF
36 HIGHWAYS, RAILROADS, BUS AND OTHER TRANSPORTATION ROUTES, BICYCLE FACILITIES,
37 BRIDGES, PUBLIC BUILDINGS, PUBLIC SERVICES, SCHOOLS, PARKS, OPEN SPACE,
38 HOUSING QUALITY, VARIETY AND AFFORDABILITY, PARKWAYS, HIKING AND RIDING
39 TRAILS, AIRPORTS, FORESTS, WILDLIFE AREAS, DAMS, PROJECTS AFFECTING
40 CONSERVATION OF NATURAL RESOURCES, AIR QUALITY, WATER QUALITY AND FLOODPLAIN
41 ZONING. IN THE PREPARATION OF THE COMPREHENSIVE PLAN, THE COMMISSION SHALL
42 MAKE SURVEYS AND STUDIES OF THE PRESENT CONDITIONS AND PROSPECTIVE FUTURE
43 GROWTH OF THE AREA OF THE JURISDICTION. THE COMPREHENSIVE PLAN SHALL BE A
44 PUBLIC RECORD, BUT ITS PURPOSE AND EFFECT SHALL BE PRIMARILY AS AN AID TO THE
45 COUNTY PLANNING AND ZONING COMMISSION AND TO THE BOARD OF SUPERVISORS IN THE

1 PERFORMANCE OF THEIR DUTIES. THE COMPREHENSIVE PLAN SHALL INCLUDE PROVISIONS
2 THAT IDENTIFY CHANGES OR MODIFICATIONS THAT CONSTITUTE AMENDMENTS AND MAJOR
3 AMENDMENTS TO THE PLAN.

4 B. IN ADDITION TO THE OTHER MATTERS THAT ARE REQUIRED OR AUTHORIZED
5 UNDER THIS SECTION AND THIS ARTICLE, FOR COUNTIES WITH A POPULATION OF MORE
6 THAN ONE HUNDRED TWENTY-FIVE THOUSAND PERSONS, THE COMPREHENSIVE PLAN SHALL
7 INCLUDE, AND FOR OTHER COUNTIES THE COMPREHENSIVE PLAN MAY INCLUDE:

8 1. PLANNING FOR LAND USE THAT DESIGNATES THE PROPOSED GENERAL
9 DISTRIBUTION AND LOCATION AND EXTENT OF USES OF THE LAND FOR HOUSING,
10 BUSINESS, INDUSTRY, AGRICULTURE, RECREATION, EDUCATION, PUBLIC BUILDINGS AND
11 GROUNDS, OPEN SPACE AND OTHER CATEGORIES OF PUBLIC AND PRIVATE USES OF LAND
12 APPROPRIATE TO THE COUNTY. THE LAND USE PLAN SHALL INCLUDE:

13 (a) A STATEMENT OF THE STANDARDS OF POPULATION DENSITY AND BUILDING
14 INTENSITY RECOMMENDED FOR THE VARIOUS LAND USE CATEGORIES COVERED BY THE
15 PLAN.

16 (b) SPECIFIC PROGRAMS AND POLICIES THAT THE COUNTY MAY USE TO PROMOTE
17 COMPACT FORM DEVELOPMENT ACTIVITY AND LOCATIONS WHERE THOSE DEVELOPMENT
18 PATTERNS SHOULD BE ENCOURAGED.

19 (c) CONSIDERATION OF AIR QUALITY AND ACCESS TO INCIDENT SOLAR ENERGY
20 FOR ALL GENERAL CATEGORIES OF LAND USE.

21 (d) POLICIES THAT ADDRESS MAINTAINING A BROAD VARIETY OF LAND USES
22 INCLUDING THE RANGE OF USES EXISTING IN THE COUNTY AT THE TIME THE PLAN IS
23 ADOPTED, READOPTED OR AMENDED.

24 2. PLANNING FOR CIRCULATION CONSISTING OF THE GENERAL LOCATION AND
25 EXTENT OF EXISTING AND PROPOSED FREEWAYS, ARTERIAL AND COLLECTOR STREETS,
26 BICYCLE ROUTES AND ANY OTHER MODES OF TRANSPORTATION AS MAY BE APPROPRIATE,
27 ALL CORRELATED WITH THE LAND USE PLAN UNDER PARAGRAPH 1 OF THIS SUBSECTION.

28 3. PLANNING FOR WATER RESOURCES THAT ADDRESSES:

29 (a) THE KNOWN LEGALLY AND PHYSICALLY AVAILABLE SURFACE WATER,
30 GROUNDWATER AND EFFLUENT SUPPLIES.

31 (b) THE DEMAND FOR WATER THAT WILL RESULT FROM FUTURE GROWTH PROJECTED
32 IN THE COMPREHENSIVE PLAN, ADDED TO EXISTING USES.

33 (c) AN ANALYSIS OF HOW THE DEMAND FOR WATER THAT WILL RESULT FROM
34 FUTURE GROWTH PROJECTED IN THE COMPREHENSIVE PLAN WILL BE SERVED BY THE WATER
35 SUPPLIES IDENTIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH OR A PLAN TO OBTAIN
36 ADDITIONAL NECESSARY WATER SUPPLIES.

37 4. PLANNING FOR ENERGY USE THAT:

38 (a) ENCOURAGES AND PROVIDES INCENTIVES FOR EFFICIENT USE OF ENERGY.

39 (b) IDENTIFIES POLICIES AND PRACTICES FOR GREATER USE OF RENEWABLE
40 ENERGY.

41 C. IN ADDITION TO THE OTHER MATTERS THAT ARE REQUIRED OR AUTHORIZED
42 UNDER THIS SECTION AND THIS ARTICLE, FOR COUNTIES WITH A POPULATION OF MORE
43 THAN TWO HUNDRED THOUSAND PERSONS, THE COMPREHENSIVE PLAN SHALL INCLUDE, AND
44 FOR OTHER COUNTIES THE COMPREHENSIVE PLAN MAY INCLUDE:

1 1. PLANNING FOR OPEN SPACE ACQUISITION AND PRESERVATION. THE OPEN
2 SPACE PLAN SHALL INCLUDE:

3 (a) A COMPREHENSIVE INVENTORY OF OPEN SPACE AREAS, RECREATIONAL
4 RESOURCES AND DESIGNATIONS OF ACCESS POINTS TO OPEN SPACE AREAS AND
5 RESOURCES.

6 (b) AN ANALYSIS OF FORECASTED NEEDS, POLICIES FOR MANAGING AND
7 PROTECTING OPEN SPACE AREAS AND RESOURCES AND IMPLEMENTATION STRATEGIES TO
8 ACQUIRE ADDITIONAL OPEN SPACE AREAS AND FURTHER ESTABLISH RECREATIONAL
9 RESOURCES.

10 (c) POLICIES AND IMPLEMENTATION STRATEGIES DESIGNED TO PROMOTE A
11 REGIONAL SYSTEM OF INTEGRATED OPEN SPACE AND RECREATIONAL RESOURCES AND A
12 CONSIDERATION OF ANY EXISTING REGIONAL OPEN SPACE PLAN.

13 2. PLANNING FOR GROWTH AREAS, SPECIFICALLY IDENTIFYING THOSE AREAS, IF
14 ANY, THAT ARE PARTICULARLY SUITABLE FOR PLANNED MULTIMODAL TRANSPORTATION AND
15 INFRASTRUCTURE EXPANSION AND IMPROVEMENTS DESIGNED TO SUPPORT A PLANNED
16 CONCENTRATION OF A VARIETY OF USES, SUCH AS RESIDENTIAL, OFFICE, COMMERCIAL,
17 TOURISM AND INDUSTRIAL USES. THE MIXED USE PLANNING SHALL INCLUDE POLICIES
18 AND IMPLEMENTATION STRATEGIES THAT ARE DESIGNED TO:

19 (a) MAKE AUTOMOBILE, TRANSIT AND OTHER MULTIMODAL CIRCULATION MORE
20 EFFICIENT, MAKE INFRASTRUCTURE EXPANSION MORE ECONOMICAL AND PROVIDE FOR A
21 RATIONAL PATTERN OF LAND DEVELOPMENT.

22 (b) CONSERVE SIGNIFICANT NATURAL RESOURCES AND OPEN AREAS IN THE
23 GROWTH AREA AND COORDINATE THEIR LOCATION TO SIMILAR AREAS OUTSIDE THE GROWTH
24 AREA'S BOUNDARIES.

25 (c) PROMOTE THE PUBLIC AND PRIVATE CONSTRUCTION OF TIMELY AND
26 FINANCIALLY SOUND INFRASTRUCTURE EXPANSION THROUGH THE USE OF INFRASTRUCTURE
27 FUNDING AND FINANCING PLANNING THAT IS COORDINATED WITH DEVELOPMENT ACTIVITY.

28 3. AN ENVIRONMENTAL PLANNING ELEMENT THAT CONTAINS ANALYSES, POLICIES
29 AND STRATEGIES TO ADDRESS ANTICIPATED EFFECTS, IF ANY, OF PLAN ELEMENTS ON
30 AIR QUALITY, WATER QUALITY AND NATURAL RESOURCES ASSOCIATED WITH PROPOSED
31 DEVELOPMENT UNDER THE COMPREHENSIVE PLAN. THE POLICIES AND STRATEGIES TO BE
32 DEVELOPED UNDER THIS ELEMENT SHALL BE DESIGNED TO HAVE COUNTYWIDE
33 APPLICABILITY AND SHALL NOT REQUIRE THE PRODUCTION OF AN ADDITIONAL
34 ENVIRONMENTAL IMPACT STATEMENT OR SIMILAR ANALYSIS BEYOND THE REQUIREMENTS OF
35 STATE AND FEDERAL LAW.

36 4. A COST OF DEVELOPMENT ELEMENT THAT IDENTIFIES POLICIES AND
37 STRATEGIES THAT THE COUNTY WILL USE TO REQUIRE DEVELOPMENT TO PAY ITS FAIR
38 SHARE TOWARD THE COST OF ADDITIONAL PUBLIC FACILITY NEEDS GENERATED BY NEW
39 DEVELOPMENT, WITH APPROPRIATE EXCEPTIONS WHEN IN THE PUBLIC INTEREST. THIS
40 ELEMENT SHALL INCLUDE:

41 (a) A COMPONENT THAT IDENTIFIES VARIOUS MECHANISMS THAT ARE ALLOWED BY
42 LAW AND THAT CAN BE USED TO FUND AND FINANCE ADDITIONAL PUBLIC SERVICES
43 NECESSARY TO SERVE THE DEVELOPMENT, INCLUDING BONDING, SPECIAL TAXING
44 DISTRICTS, DEVELOPMENT FEES, IN LIEU FEES AND FACILITY CONSTRUCTION,
45 DEDICATIONS AND PRIVATIZATION.

(b) A COMPONENT THAT IDENTIFIES POLICIES TO ENSURE THAT ANY MECHANISMS THAT ARE ADOPTED BY THE COUNTY UNDER THIS ELEMENT RESULT IN A BENEFICIAL USE TO THE DEVELOPMENT, BEAR A REASONABLE RELATIONSHIP TO THE BURDEN IMPOSED ON THE COUNTY TO PROVIDE ADDITIONAL NECESSARY PUBLIC FACILITIES TO THE DEVELOPMENT AND OTHERWISE ARE IMPOSED PURSUANT TO LAW.

D. THE WATER RESOURCES ELEMENT OF THE COMPREHENSIVE PLAN DOES NOT REQUIRE:

1. NEW INDEPENDENT HYDROGEOLOGIC STUDIES.

2. THE COUNTY TO BE A WATER SERVICE PROVIDER.

E. IN APPLYING AN OPEN SPACE ELEMENT OR A GROWTH ELEMENT OF A COMPREHENSIVE PLAN, A COUNTY SHALL NOT DESIGNATE PRIVATE OR STATE LAND AS OPEN SPACE, RECREATION, CONSERVATION OR AGRICULTURE UNLESS THE COUNTY RECEIVES THE WRITTEN CONSENT OF THE LANDOWNER OR PROVIDES AN ALTERNATIVE, ECONOMICALLY VIABLE DESIGNATION IN THE COMPREHENSIVE PLAN OR ZONING ORDINANCE, ALLOWING AT LEAST ONE RESIDENTIAL DWELLING PER ACRE. IF THE LANDOWNER IS THE PREVAILING PARTY IN ANY ACTION BROUGHT TO ENFORCE THIS SUBSECTION, A COURT SHALL AWARD FEES AND OTHER EXPENSES TO THE LANDOWNER. EACH COUNTY SHALL INCORPORATE THIS SUBSECTION INTO ITS COMPREHENSIVE PLAN AND PROVIDE A PROCESS FOR A LANDOWNER TO RESOLVE DISCREPANCIES RELATING TO THIS SUBSECTION.

F. THE POLICIES AND STRATEGIES TO BE DEVELOPED UNDER THESE ELEMENTS SHALL BE DESIGNED TO HAVE REGIONAL APPLICABILITY.

G. FOR COUNTIES WITH TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE COMMISSION SHALL ALSO CONSIDER MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY OPERATIONS AND, ON OR BEFORE DECEMBER 31, 2005, SHALL IDENTIFY THE BOUNDARIES OF ANY HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461 IN ITS COMPREHENSIVE PLAN FOR PURPOSES OF PLANNING LAND USES IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE THAT ARE COMPATIBLE WITH THE OPERATION OF THE MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY PURSUANT TO SECTION 28-8481, SUBSECTION J.

11-805. Comprehensive plan adoption; notice; hearing; amendment; expiration; readoption

A. THE BOARD SHALL ADOPT A COMPREHENSIVE PLAN AND SUBSEQUENTLY AMEND OR EXTEND THE ADOPTED PLAN AS PROVIDED BY THIS ARTICLE. ON ADOPTION OR READoption, THE PLAN, OR ANY PART OF THE PLAN, SHALL BE THE OFFICIAL GUIDE FOR THE DEVELOPMENT OF THE AREA OF JURISDICTION. ANY CHANGE, AMENDMENT, EXTENSION OR ADDITION OF THE COMPREHENSIVE PLAN MAY BE MADE ONLY PURSUANT TO THIS CHAPTER.

B. THE BOARD OF SUPERVISORS SHALL:

1. ADOPT WRITTEN PROCEDURES TO PROVIDE EFFECTIVE, EARLY AND CONTINUOUS PUBLIC PARTICIPATION IN THE DEVELOPMENT AND MAJOR AMENDMENT OF THE COMPREHENSIVE PLAN FROM ALL GEOGRAPHIC, ETHNIC AND ECONOMIC AREAS OF THE COUNTY. THE PROCEDURES SHALL PROVIDE FOR:

- 1 (a) THE BROAD DISSEMINATION OF PROPOSALS AND ALTERNATIVES.
- 2 (b) THE OPPORTUNITY FOR WRITTEN COMMENTS.
- 3 (c) PUBLIC HEARINGS AFTER EFFECTIVE NOTICE.
- 4 (d) OPEN DISCUSSIONS, COMMUNICATIONS PROGRAMS AND INFORMATION
- 5 SERVICES.
- 6 (e) CONSIDERATION OF PUBLIC COMMENTS.
- 7 2. CONSULT WITH, ADVISE AND PROVIDE AN OPPORTUNITY FOR OFFICIAL
- 8 COMMENT BY PUBLIC OFFICIALS AND AGENCIES, MUNICIPALITIES, SCHOOL DISTRICTS,
- 9 ASSOCIATIONS OF GOVERNMENTS, PUBLIC LAND MANAGEMENT AGENCIES, THE MILITARY
- 10 AIRPORT IF THE COUNTY'S AREA OF JURISDICTION INCLUDES TERRITORY IN THE
- 11 VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN
- 12 SECTION 28-8461, OTHER APPROPRIATE GOVERNMENT JURISDICTIONS, PUBLIC UTILITY
- 13 COMPANIES, CIVIC, EDUCATIONAL, PROFESSIONAL AND OTHER ORGANIZATIONS, PROPERTY
- 14 OWNERS AND CITIZENS GENERALLY TO SECURE THE MAXIMUM COORDINATION OF PLANS AND
- 15 TO INDICATE PROPERLY LOCATED SITES FOR ALL PUBLIC PURPOSES ON THE PLAN.
- 16 C. THE COMMISSION SHALL CONFER WITH THE STATE LAND DEPARTMENT AND THE
- 17 GOVERNING BODIES AND PLANNING COMMISSIONS OF CITIES AND TOWNS IN THE COUNTY
- 18 FOR THE PURPOSE OF GUIDING AND ACCOMPLISHING A COORDINATED, ADJUSTED AND
- 19 HARMONIOUS DEVELOPMENT OF THE COUNTY, OF ZONING DISTRICTS, OF URBAN GROWTH
- 20 AND OF PUBLIC IMPROVEMENTS AND UTILITIES THAT DO NOT BEGIN AND TERMINATE
- 21 WITHIN THE BOUNDARIES OF ANY SINGLE CITY OR TOWN AND THAT WILL, PURSUANT TO
- 22 THE PRESENT AND FUTURE NEEDS OF THE COUNTY, BEST PROMOTE WITH EFFICIENCY AND
- 23 ECONOMY THE HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE OR GENERAL WELFARE OF
- 24 THE PUBLIC.
- 25 D. THE COMMISSION SHALL COORDINATE THE PRODUCTION OF THE COMPREHENSIVE
- 26 PLAN WITH THE CREATION OF THE CONCEPTUAL STATE LAND USE PLANS UNDER TITLE 37,
- 27 CHAPTER 2, ARTICLE 5.1. THE COMMISSION SHALL COOPERATE WITH THE STATE LAND
- 28 DEPARTMENT REGARDING INTEGRATING THE CONCEPTUAL STATE LAND USE PLANS INTO THE
- 29 COMPREHENSIVE PLAN.
- 30 E. THE COMMISSION MAY FORMULATE AND DRAFT THE COMPREHENSIVE PLAN AS A
- 31 WHOLE, OR SEPARATE PARTS OF THE PLAN CORRESPONDING WITH FUNCTIONAL DIVISIONS
- 32 OF THE SUBJECT MATTER, AND, SUBJECT TO THE LIMITATIONS OF THIS CHAPTER, MAY
- 33 AMEND, EXTEND OR ADD TO THE COMPREHENSIVE PLAN.
- 34 F. AT LEAST SIXTY DAYS BEFORE THE COMPREHENSIVE PLAN OR AN ELEMENT OR
- 35 MAJOR AMENDMENT OF A COMPREHENSIVE PLAN IS NOTICED PURSUANT TO SUBSECTION G
- 36 OF THIS SECTION, THE COMMISSION SHALL TRANSMIT THE PROPOSAL TO THE BOARD OF
- 37 SUPERVISORS AND SUBMIT A COPY FOR REVIEW AND FURTHER COMMENT TO:
- 38 1. EACH MUNICIPALITY IN THE COUNTY.
- 39 2. EACH OTHER COUNTY THAT IS CONTIGUOUS TO THE COUNTY.
- 40 3. THE REGIONAL PLANNING AGENCY IN THE COUNTY.
- 41 4. THE DEPARTMENT OF COMMERCE OR ANY OTHER STATE AGENCY THAT IS
- 42 SUBSEQUENTLY DESIGNATED AS THE GENERAL PLANNING AGENCY FOR THIS STATE.
- 43 5. THE DEPARTMENT OF WATER RESOURCES FOR REVIEW AND COMMENT ON THE
- 44 WATER RESOURCES ELEMENT, IF A WATER RESOURCES ELEMENT IS REQUIRED.

1 6. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR AMENDMENT OF THE
2 COMPREHENSIVE PLAN IS APPLICABLE TO TERRITORY IN THE VICINITY OF A MILITARY
3 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE
4 MILITARY AIRPORT.

5 7. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR MAJOR AMENDMENT OF THE
6 COMPREHENSIVE PLAN IS APPLICABLE TO PROPERTY IN THE HIGH NOISE OR ACCIDENT
7 POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS
8 DEFINED IN SECTION 28-8461, THE ATTORNEY GENERAL. FOR THE PURPOSES OF THIS
9 PARAGRAPH, "MAJOR AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S
10 LAND USE MIXTURE OR BALANCE AS ESTABLISHED IN THE COUNTY'S EXISTING
11 COMPREHENSIVE PLAN LAND USE ELEMENT FOR THAT AREA OF THE COUNTY.

12 8. ANY PERSON OR ENTITY THAT REQUESTS IN WRITING TO RECEIVE A REVIEW
13 COPY OF THE PROPOSAL.

14 G. AFTER CONSIDERING ANY RECOMMENDATIONS FROM THE REVIEW REQUIRED
15 UNDER SUBSECTION F OF THIS SECTION, THE COMMISSION SHALL HOLD AT LEAST ONE
16 PUBLIC HEARING. NOTICE OF THE TIME AND PLACE OF A HEARING AND AVAILABILITY
17 OF STUDIES AND SUMMARIES RELATED TO THE HEARING SHALL BE GIVEN AT LEAST
18 FIFTEEN AND NOT MORE THAN THIRTY CALENDAR DAYS BEFORE THE HEARING BY:

19 1. PUBLICATION AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN
20 THE COUNTY SEAT.

21 2. PUBLICATION AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN
22 THE AREA TO BE AFFECTED, OR ADJACENT TO THE AREA TO BE AFFECTED, IF THE AREA
23 AFFECTED IS OTHER THAN THE COUNTY SEAT.

24 3. SUCH OTHER MANNER IN ADDITION TO PUBLICATION AS THE COUNTY MAY DEEM
25 NECESSARY OR DESIRABLE.

26 H. AFTER THE COMMISSION RECOMMENDS THE COMPREHENSIVE PLAN OR ANY
27 SECTION OF THE PLAN, THE PLAN SHALL BE SUBMITTED TO THE BOARD OF SUPERVISORS
28 FOR ITS CONSIDERATION AND OFFICIAL ACTION.

29 I. BEFORE THE ADOPTION, AMENDMENT OR EXTENSION OF THE PLAN, THE BOARD
30 SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE PLAN. AFTER THE BOARD
31 CONSIDERS THE COMMISSION'S RECOMMENDATION AND ANY RECOMMENDATIONS FROM THE
32 REVIEW REQUIRED UNDER SUBSECTION F OF THIS SECTION, THE BOARD SHALL HOLD AT
33 LEAST ONE PUBLIC HEARING AT WHICH RESIDENTS OF THE COUNTY SHALL BE HEARD
34 CONCERNING THE MATTERS CONTAINED IN THE PLAN. AT LEAST FIFTEEN DAYS' NOTICE
35 OF THE HEARING SHALL BE GIVEN BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL
36 CIRCULATION IN THE COUNTY SEAT. THE BOARD SHALL CONSIDER PROTESTS AND
37 OBJECTIONS TO THE PLAN AND MAY CHANGE OR ALTER ANY PORTION OF THE
38 COMPREHENSIVE PLAN. HOWEVER, BEFORE ANY CHANGE IS MADE, THAT PORTION OF THE
39 PLAN PROPOSED TO BE CHANGED SHALL BE RE-REFERRED TO THE COMMISSION FOR ITS
40 RECOMMENDATION, WHICH MAY BE ACCEPTED OR REJECTED BY THE BOARD.

41 J. THE BOARD OF SUPERVISORS MAY ADOPT THE COUNTY COMPREHENSIVE PLAN AS
42 A WHOLE OR BY SUCCESSIVE ACTIONS ADOPT SEPARATE PARTS OF THE PLAN. THE
43 ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR ANY AMENDMENT TO THE PLAN
44 SHALL BE BY RESOLUTION OF THE BOARD. THE ADOPTION OR READOPTION OF, OR A
45 MAJOR AMENDMENT TO, THE COUNTY COMPREHENSIVE PLAN SHALL BE APPROVED BY THE

1 AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF THE BOARD. ALL
2 MAJOR AMENDMENTS PROPOSED FOR ADOPTION TO THE COMPREHENSIVE PLAN BY THE BOARD
3 SHALL BE PRESENTED AT A SINGLE PUBLIC HEARING DURING THE CALENDAR YEAR THE
4 PROPOSAL IS MADE. THE ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN, AND
5 ANY MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN, SHALL NOT BE ENACTED AS AN
6 EMERGENCY MEASURE AND IS SUBJECT TO REFERENDUM AS PROVIDED BY ARTICLE IV,
7 PART 1, SECTION 1, SUBSECTION (8), CONSTITUTION OF ARIZONA, AND TITLE 19,
8 CHAPTER 1, ARTICLE 4. FOR THE PURPOSES OF THIS SECTION, "MAJOR AMENDMENT"
9 MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S LAND USE MIXTURE OR BALANCE AS
10 ESTABLISHED IN THE COUNTY'S EXISTING COMPREHENSIVE PLAN LAND USE ELEMENT FOR
11 THAT AREA OF THE COUNTY. THE COUNTY'S COMPREHENSIVE PLAN SHALL DEFINE THE
12 CRITERIA TO DETERMINE IF A PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN
13 EFFECTS A SUBSTANTIAL ALTERATION OF THE COUNTY'S LAND USE MIXTURE OR BALANCE
14 AS ESTABLISHED IN THE COUNTY'S EXISTING COMPREHENSIVE PLAN LAND USE ELEMENT
15 FOR THAT AREA OF THE COUNTY.

16 K. IF THE COUNTY'S AREA OF JURISDICTION INCLUDES PROPERTY IN THE HIGH
17 NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY
18 FACILITY AS DEFINED IN SECTION 28-8461, THE BOARD SHALL SEND NOTICE OF THE
19 APPROVAL, ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT
20 TO THE COMPREHENSIVE PLAN TO THE ATTORNEY GENERAL BY CERTIFIED MAIL, RETURN
21 RECEIPT REQUESTED, WITHIN THREE BUSINESS DAYS AFTER THE APPROVAL, ADOPTION OR
22 READOPTION. IF THE ATTORNEY GENERAL DETERMINES THE APPROVAL, ADOPTION OR
23 READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE
24 PLAN IS NOT IN COMPLIANCE WITH SECTION 28-8481, SUBSECTION J, THE ATTORNEY
25 GENERAL SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
26 OF THE DETERMINATION OF NONCOMPLIANCE. THE BOARD SHALL RECEIVE THE NOTICE
27 FROM THE ATTORNEY GENERAL WITHIN TWENTY-FIVE DAYS AFTER THE NOTICE FROM THE
28 BOARD TO THE ATTORNEY GENERAL IS MAILED PURSUANT TO THIS SUBSECTION. THE
29 EFFECTIVE DATE OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT
30 TO, THE COMPREHENSIVE PLAN SHALL BE THIRTY DAYS AFTER THE BOARD'S RECEIPT OF
31 THE ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE. WITHIN THIRTY DAYS
32 AFTER THE RECEIPT OF A DETERMINATION OF NONCOMPLIANCE BY THE ATTORNEY GENERAL
33 AS PRESCRIBED BY THIS SECTION, THE BOARD SHALL RECONSIDER ANY APPROVAL,
34 ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE COMPREHENSIVE PLAN THAT
35 IMPACTS PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY
36 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461. IF THE
37 BOARD REAFFIRMS A PRIOR ACTION SUBJECT TO AN ATTORNEY GENERAL'S DETERMINATION
38 OF NONCOMPLIANCE PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE
39 A CIVIL ACTION PURSUANT TO SECTION 28-8481, SUBSECTION L. IF THE BOARD
40 TIMELY SENDS NOTICE PURSUANT TO THIS SUBSECTION AND THE ATTORNEY GENERAL
41 FAILS TO TIMELY NOTIFY THE BOARD OF A DETERMINATION OF NONCOMPLIANCE, THE
42 COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN IS DEEMED TO
43 COMPLY WITH SECTION 28-8481, SUBSECTION J. FOR THE PURPOSES OF THIS
44 SUBSECTION "MAJOR AMENDMENT" HAS THE SAME MEANING PRESCRIBED IN SUBSECTION J
45 OF THIS SECTION.

1 L. IF THE MOTION TO ADOPT OR READOPT THE PLAN OR AN AMENDMENT TO THE
2 PLAN FAILS TO PASS, THE BOARD MAY RECONSIDER THE MOTION IN ANY MANNER ALLOWED
3 BY THE BOARD'S RULES OF PROCEDURE, BUT ANY SUBSEQUENT MOTION FOR THE ADOPTION
4 OR READOPTION OF THE PLAN OR A MAJOR AMENDMENT TO THE PLAN MUST BE APPROVED
5 BY AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF THE BOARD.
6 IF THE BOARD FAILS TO ADOPT OR READOPT THE PLAN, THE CURRENT PLAN REMAINS IN
7 EFFECT UNTIL A NEW PLAN IS ADOPTED. THE BOARD SHALL EITHER RECONSIDER THE
8 PROPOSED PLAN OR CONSIDER A REVISED PLAN WITHIN ONE YEAR AND SHALL CONTINUE
9 TO DO SO UNTIL ONE IS ADOPTED. ALL SUBSEQUENT CONSIDERATIONS OF A NEW OR
10 REVISED PLAN MUST COMPLY WITH THE PROCEDURES PRESCRIBED BY THIS ARTICLE.

11 M. A COUNTY COMPREHENSIVE PLAN, WITH ANY AMENDMENTS, IS EFFECTIVE FOR
12 UP TO TEN YEARS FROM THE DATE THE PLAN WAS INITIALLY ADOPTED OR UNTIL THE
13 PLAN IS READOPTED OR A NEW PLAN IS ADOPTED PURSUANT TO THIS SUBSECTION AND
14 BECOMES EFFECTIVE. ON OR BEFORE THE TENTH ANNIVERSARY OF THE PLAN'S MOST
15 RECENT ADOPTION, THE BOARD SHALL EITHER READOPT THE EXISTING PLAN FOR AN
16 ADDITIONAL TERM OF UP TO TEN YEARS OR SHALL ADOPT A NEW COMPREHENSIVE PLAN AS
17 PROVIDED BY THIS ARTICLE.

18 11-806. Rural planning areas; rural planning zones; formation

19 A. IN COUNTIES WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
20 PERSONS, THE BOARD OF SUPERVISORS SHALL RECEIVE PETITIONS TO FORM A RURAL
21 PLANNING AREA THAT ARE SIGNED BY PERSONS WHO OWN REAL PROPERTY IN ANY
22 SPECIFIC PORTION OF THE COUNTY OUTSIDE THE CORPORATE BOUNDARIES OF ANY CITIES
23 AND TOWNS. OWNERS OF A MAJORITY OF THE ACRES OF REAL PROPERTY IN THE
24 PROPOSED PLANNING AREA MUST SIGN THE PETITION. PARTICIPATION IN THE RURAL
25 PLANNING AREA IS VOLUNTARY, AND ANY PERSON MAY WITHDRAW REAL PROPERTY OWNED
26 BY THE PERSON FROM THE PLANNING AREA. THE BOARD OF SUPERVISORS SHALL
27 ENCOURAGE VOLUNTARY PARTICIPATION IN THE PLANNING AREA AND SHALL AID THE
28 PLANNING AREAS IN PROVIDING A SOUND FACTUAL AND POLICY BASIS FOR PLANNING.
29 THE RECOMMENDATIONS OF RURAL PLANNING AREAS SHALL EMPHASIZE VOLUNTARY,
30 NONREGULATORY INCENTIVES FOR COMPLIANCE AND ACCOMMODATION OF CONTINUING
31 TRADITIONAL RURAL AND AGRICULTURAL ENTERPRISES. RURAL PLANNING AREAS SHALL
32 TRANSMIT THEIR RECOMMENDATIONS TO THE BOARD OF SUPERVISORS FOR ITS
33 CONSIDERATION FOR INCLUSION IN THE COUNTY COMPREHENSIVE PLAN.

34 B. IN ANY COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
35 PERSONS, ANY CITIES AND TOWNS AND THE COUNTY SHARING A MULTIJURISDICTIONAL
36 AREA WITH A COMBINED POPULATION OF MORE THAN FIFTY THOUSAND BUT LESS THAN ONE
37 HUNDRED THOUSAND PERSONS, ACCORDING TO THE MOST RECENT DEPARTMENT OF ECONOMIC
38 SECURITY ESTIMATES, MAY VOLUNTARILY FORM RURAL PLANNING ZONES TO DEVELOP
39 COORDINATED AND COMPREHENSIVE REGIONAL PLANS.

40 11-807. Specific zoning plans; adoption; administration;
41 contents

42 A. THE BOARD OR COMMISSION OF A COUNTY WITH A POPULATION OF LESS THAN
43 TWO MILLION PERSONS MAY PREPARE SPECIFIC ZONING PLANS FOR DESIGNATED PARCELS
44 OF LAND, WHICH SHALL INCLUDE A TEXT AND MAPS OF A LAND USE PLAN AND SPECIFIC
45 ZONING, SIGN, STREET AND OTHER REGULATIONS FOR IMPLEMENTATION OF THE COUNTY

1 MASTER PLANS. ALL PROPERTY OWNERS WITHIN THE BOUNDARIES OF THE SPECIFIC
2 ZONING PLAN SHALL GIVE WRITTEN CONSENT BEFORE THE PLAN MAY BE ESTABLISHED. A
3 SPECIFIC ZONING PLAN SHALL NOT BE ADOPTED IF IT CREATES AN AREA THAT IS NOT
4 WITHIN THE PLAN BUT IS COMPLETELY SURROUNDED BY THE PLAN BOUNDARIES.

5 B. A SPECIFIC ZONING PLAN MAY BE ADOPTED OR AMENDED AFTER NOTICE AND
6 HEARINGS BEFORE THE COMMISSION AND BOARD AS PROVIDED IN SECTION 11-813. IF
7 THE BOARD ADOPTS A SPECIFIC ZONING PLAN, IT SHALL ESTABLISH ADMINISTRATIVE
8 RULES AND PROCEDURES FOR THE APPLICATION AND ENFORCEMENT OF THE PLAN AND MAY
9 ASSIGN OR DELEGATE ADMINISTRATIVE FUNCTIONS, POWERS AND DUTIES FOR THE PLAN
10 TO COUNTY OFFICERS AND OFFICIALS.

11 C. A SPECIFIC ZONING PLAN SHALL INCLUDE TEXT, MAPS AND ILLUSTRATIONS
12 SPECIFYING ALL OF THE FOLLOWING:

13 1. THE DISTRIBUTION, LOCATION AND EXTENT OF LAND USES, INCLUDING OPEN
14 SPACE.

15 2. THE DISTRIBUTION, LOCATION, EXTENT AND INTENSITY OF MAJOR
16 COMPONENTS OF PUBLIC AND PRIVATE TRANSPORTATION, SEWAGE AND SOLID WASTE
17 DISPOSAL, DRAINAGE AND OTHER FACILITIES NECESSARY TO PROVIDE FOR THE LAND
18 USES DESCRIBED IN THE SPECIFIC ZONING PLAN.

19 3. STANDARDS BY WHICH DEVELOPMENT SHALL PROCEED AND, IF APPLICABLE,
20 REQUIREMENTS FOR CONSERVATION, DEVELOPMENT AND UTILIZATION OF NATURAL
21 RESOURCES.

22 4. A STATEMENT OF WHETHER THE SPECIFIC ZONING PLAN IS CONSISTENT WITH
23 THE COMPREHENSIVE PLAN REQUIRED BY SECTION 11-804.

24 5. ANY OTHER MATTERS NECESSARY OR DESIRABLE FOR IMPLEMENTATION OF THE
25 SPECIFIC ZONING PLAN.

26 D. ALL SPECIFIC ZONING PLANS ADOPTED UNDER THIS ARTICLE SHALL BE
27 CONSISTENT WITH AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN.

28 11-808. Infrastructure service area boundaries; notice;
29 hearing; adoption

30 A. THE COUNTY PLANNING AND ZONING COMMISSION MAY PREPARE A PLAN AND
31 PROVIDE REGULATIONS DETERMINING THE LOCATION OF INFRASTRUCTURE SERVICE AREA
32 BOUNDARIES CONSISTENT WITH THE GROWTH AREA ELEMENT OF THE COMPREHENSIVE PLAN
33 BEYOND WHICH THE COUNTY MAY LIMIT OR PRESCRIBE CONDITIONS ON PUBLICLY
34 FINANCED EXTENSIONS OF WATER, SEWER AND STREET IMPROVEMENTS. THE PLAN AND
35 REGULATIONS SHALL CONSIDER ALL ELEMENTS OF THE COMPREHENSIVE PLAN, INCLUDING
36 THE CIRCULATION AND PUBLIC FACILITIES ELEMENTS. FOR THE PURPOSES OF THIS
37 SUBSECTION, PUBLICLY FINANCED DOES NOT INCLUDE SPECIAL TAXING DISTRICT
38 FINANCING OTHER THAN MUNICIPAL OR COUNTY IMPROVEMENT DISTRICT REVENUES OR
39 BONDS. THE REGULATIONS SHALL ALSO INCLUDE COMPONENTS THAT:

40 1. ASSIGN OR DELEGATE ADMINISTRATIVE FUNCTIONS, POWERS AND DUTIES TO
41 COUNTY OFFICERS AND EMPLOYEES.

42 2. IDENTIFY THE PROCEDURE FOR DETERMINING THE INITIAL INFRASTRUCTURE
43 SERVICE AREA BOUNDARIES.

44 3. IDENTIFY THE METHODOLOGY AND PROCEDURES FOR ADJUSTING THE
45 INFRASTRUCTURE SERVICE AREA BOUNDARIES.

1 B. BEFORE RECOMMENDING THE PLAN AND REGULATIONS, OR ANY PART,
2 AMENDMENT, EXTENSION OR ADDITION, TO THE BOARD OF SUPERVISORS, THE COMMISSION
3 SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE SERVICE AREA BOUNDARIES, AFTER
4 GIVING AT LEAST FIFTEEN DAYS' NOTICE BY PUBLICATION IN A NEWSPAPER OF GENERAL
5 CIRCULATION IN THE COUNTY SEAT AND IN A NEWSPAPER OF GENERAL CIRCULATION IN
6 THE AREA TO BE AFFECTED, IF THAT AREA IS OTHER THAN THE COUNTY SEAT.

7 C. THE BOARD OF SUPERVISORS SHALL ADOPT ANY SUCH PLAN AND REGULATIONS
8 AND AMENDMENTS BY RESOLUTION.

9 ARTICLE 2. COUNTY ZONING

10 11-811. Zoning ordinance; zoning districts; definitions

11 A. PURSUANT TO THIS ARTICLE, THE BOARD OF SUPERVISORS MAY ADOPT A
12 ZONING ORDINANCE IN ORDER TO CONSERVE AND PROMOTE THE PUBLIC HEALTH, SAFETY,
13 CONVENIENCE AND GENERAL WELFARE. THE ZONING ORDINANCE AND ALL REZONINGS AND
14 ZONING REGULATIONS AMENDMENTS ADOPTED UNDER THIS ARTICLE SHALL BE CONSISTENT
15 WITH AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN. IN ADDITION TO THE OTHER
16 MATTERS THAT ARE REQUIRED OR AUTHORIZED UNDER THIS SECTION AND ARTICLE 1 OF
17 THIS CHAPTER, THE ZONING ORDINANCE:

18 1. SHALL SHOW THE ZONING DISTRICTS DESIGNATED AS APPROPRIATE FOR
19 VARIOUS CLASSES OF RESIDENTIAL, BUSINESS AND INDUSTRIAL USES AND SHALL
20 PROVIDE FOR THE ESTABLISHMENT OF SETBACK LINES AND OTHER PLANS PROVIDING FOR
21 ADEQUATE LIGHT, AIR AND PARKING FACILITIES AND FOR EXPEDITING TRAFFIC WITHIN
22 THE DISTRICTS.

23 2. MAY ESTABLISH THE PERCENTAGE OF A LOT OR PARCEL THAT MAY BE COVERED
24 BY BUILDINGS AND THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES.

25 3. SHALL CONSIDER ACCESS TO INCIDENT SOLAR ENERGY.

26 4. MAY PROVIDE FOR RETIREMENT COMMUNITY ZONING DISTRICTS.

27 5. MAY PROVIDE FOR THE REGULATION AND USE OF BUSINESS LICENSES, ADULT
28 ORIENTED BUSINESS MANAGER PERMITS AND ADULT SERVICE PROVIDER PERMITS IN
29 CONJUNCTION WITH THE ESTABLISHMENT OR OPERATION OF ADULT ORIENTED BUSINESSES
30 AND FACILITIES, INCLUDING ADULT ARCADES, ADULT BOOKSTORES OR VIDEO STORES,
31 CABARETS, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION PICTURE
32 THEATERS, ADULT THEATERS, MASSAGE ESTABLISHMENTS AND NUDE MODEL STUDIOS.
33 WITH RESPECT TO CABARETS, THE ORDINANCE SHALL NOT CONFLICT WITH SPECIFIC
34 STATUTORY OR VALID REGULATORY REQUIREMENTS APPLICABLE TO PERSONS LICENSED TO
35 DISPENSE ALCOHOLIC BEVERAGES, BUT THE ORDINANCE MAY INCLUDE REGULATION OF THE
36 AGE AND CONDUCT OF EROTIC ENTERTAINERS IN A MANNER AT LEAST AS RESTRICTIVE AS
37 RULES ADOPTED UNDER TITLE 4. NOTWITHSTANDING SECTION 11-812, A COUNTY IN
38 REGULATING OR LICENSING BUSINESSES AND FACILITIES PURSUANT TO THIS PARAGRAPH
39 MAY IMPOSE REASONABLE OPERATING REQUIREMENTS THAT AFFECT THE EXISTING USES OF
40 BUSINESSES AND FACILITIES.

41 6. SHALL DESIGNATE AND ZONE APPROPRIATE AREAS OF REASONABLE SIZE IN
42 WHICH THERE MAY BE ESTABLISHED WITH REASONABLE PERMANENCY CANNERIES,
43 FERTILIZER PLANTS, REFINERIES, COMMERCIAL FEED LOTS, MEAT PACKING PLANTS,
44 TALLOW WORKS AND OTHER LIKE BUSINESSES.

1 B. TO CARRY OUT THE PURPOSES OF THIS ARTICLE, THE BOARD MAY ADOPT
2 OVERLAY ZONING DISTRICTS AND REGULATIONS APPLICABLE TO PARTICULAR BUILDINGS,
3 STRUCTURES AND LAND WITHIN INDIVIDUAL ZONES. FOR THE PURPOSES OF THIS
4 SUBSECTION, "OVERLAY ZONING DISTRICT" MEANS A SPECIAL ZONING DISTRICT THAT
5 INCLUDES REGULATIONS THAT MODIFY REGULATIONS IN ANOTHER ZONING DISTRICT WITH
6 WHICH THE OVERLAY ZONING DISTRICT IS COMBINED. OVERLAY ZONING DISTRICTS AND
7 REGULATIONS SHALL BE ADOPTED PURSUANT TO SECTION 11-813. THE PROVISIONS OF
8 OVERLAY ZONING SHALL APPLY RETROACTIVELY TO AUTHORIZE OVERLAY ZONING
9 DISTRICTS AND REGULATIONS ADOPTED BEFORE APRIL 20, 1993.

10 C. THIS SECTION DOES NOT AUTHORIZE:

11 1. THE IMPOSITION OF DEDICATIONS, EXACTIONS, FEES OR OTHER
12 REQUIREMENTS THAT ARE NOT OTHERWISE AUTHORIZED BY LAW.

13 2. THE REGULATION OR RESTRICTION OF THE USE OR OCCUPATION OF LAND OR
14 IMPROVEMENTS FOR RAILROAD, MINING, METALLURGICAL, GRAZING OR GENERAL
15 AGRICULTURAL PURPOSES, IF THE TRACT CONCERNED IS FIVE OR MORE CONTIGUOUS
16 COMMERCIAL ACRES.

17 D. FOR THE PURPOSES OF THIS SECTION:

18 1. "ADULT ARCADE" MEANS ANY PLACE TO WHICH THE PUBLIC IS PERMITTED OR
19 INVITED AND IN WHICH COIN-OPERATED OR SLUG-OPERATED OR ELECTRONICALLY,
20 ELECTRICALLY OR MECHANICALLY CONTROLLED STILL OR MOTION PICTURE MACHINES,
21 PROJECTORS OR OTHER IMAGE PRODUCING DEVICES ARE MAINTAINED TO SHOW IMAGES
22 INVOLVING SPECIFIC SEXUAL ACTIVITIES OR SPECIFIC ANATOMICAL AREAS TO PERSONS
23 IN BOOTHS OR VIEWING ROOMS.

24 2. "ADULT BOOKSTORE OR VIDEO STORE" MEANS A COMMERCIAL ESTABLISHMENT
25 THAT OFFERS FOR SALE OR RENT ANY OF THE FOLLOWING AS ONE OF ITS PRINCIPAL
26 BUSINESS PURPOSES:

27 (a) BOOKS, MAGAZINES, PERIODICALS OR OTHER PRINTED MATTER,
28 PHOTOGRAPHS, FILMS, MOTION PICTURES, VIDEOCASSETTES OR REPRODUCTIONS OR
29 SLIDES OR OTHER VISUAL REPRESENTATIONS THAT DEPICT OR DESCRIBE SPECIFIC
30 SEXUAL ACTIVITIES OR SPECIFIC ANATOMICAL AREAS.

31 (b) INSTRUMENTS, DEVICES OR PARAPHERNALIA THAT ARE DESIGNED FOR USE IN
32 CONNECTION WITH SPECIFIC SEXUAL ACTIVITIES.

33 3. "ADULT LIVE ENTERTAINMENT ESTABLISHMENT" MEANS AN ESTABLISHMENT
34 THAT FEATURES EITHER:

35 (a) PERSONS WHO APPEAR IN A STATE OF NUDITY.

36 (b) LIVE PERFORMANCES THAT ARE CHARACTERIZED BY THE EXPOSURE OF
37 SPECIFIC ANATOMICAL AREAS OR SPECIFIC SEXUAL ACTIVITIES.

38 4. "ADULT MOTION PICTURE THEATER" MEANS A COMMERCIAL ESTABLISHMENT IN
39 WHICH FOR ANY FORM OF CONSIDERATION FILMS, MOTION PICTURES, VIDEOCASSETTES,
40 SLIDES OR OTHER SIMILAR PHOTOGRAPHIC REPRODUCTIONS THAT ARE CHARACTERIZED BY
41 THE DEPICTION OR DESCRIPTION OF SPECIFIC SEXUAL ACTIVITIES OR SPECIFIC
42 ANATOMICAL AREAS ARE PREDOMINANTLY SHOWN.

43 5. "ADULT ORIENTED BUSINESS" MEANS ADULT ARCADES, ADULT BOOKSTORES OR
44 VIDEO STORES, CABARETS, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION

1 PICTURE THEATERS, ADULT THEATERS, MASSAGE ESTABLISHMENTS THAT OFFER ADULT
2 SERVICE OR NUDE MODEL STUDIOS.

3 6. "ADULT ORIENTED BUSINESS MANAGER" MEANS A PERSON ON THE PREMISES OF
4 AN ADULT ORIENTED BUSINESS WHO IS AUTHORIZED TO EXERCISE OVERALL OPERATIONAL
5 CONTROL OF THE BUSINESS.

6 7. "ADULT SERVICE" MEANS DANCING, SERVING FOOD OR BEVERAGES, MODELING,
7 POSING, WRESTLING, SINGING, READING, TALKING, LISTENING OR OTHER PERFORMANCES
8 OR ACTIVITIES CONDUCTED FOR ANY CONSIDERATION IN AN ADULT ORIENTED BUSINESS
9 BY A PERSON WHO IS NUDE OR SEMINUDE DURING ALL OR PART OF THE TIME THAT THE
10 PERSON IS PROVIDING THE SERVICE.

11 8. "ADULT SERVICE PROVIDER" OR "EROTIC ENTERTAINER" MEANS ANY NATURAL
12 PERSON WHO PROVIDES AN ADULT SERVICE.

13 9. "ADULT THEATER" MEANS A THEATER, CONCERT HALL, AUDITORIUM OR
14 SIMILAR COMMERCIAL ESTABLISHMENT THAT PREDOMINANTLY FEATURES PERSONS WHO
15 APPEAR IN A STATE OF NUDITY OR WHO ENGAGE IN LIVE PERFORMANCES THAT ARE
16 CHARACTERIZED BY THE EXPOSURE OF SPECIFIC ANATOMICAL AREAS OR SPECIFIC SEXUAL
17 ACTIVITIES.

18 10. "CABARET" MEANS AN ADULT ORIENTED BUSINESS LICENSED TO PROVIDE
19 ALCOHOLIC BEVERAGES PURSUANT TO TITLE 4, CHAPTER 2, ARTICLE 1.

20 11. "DISCERNIBLY TURGID STATE" MEANS THE STATE OF BEING VISIBLY
21 SWOLLEN, BLOATED, INFLATED OR DISTENDED.

22 12. "MASSAGE ESTABLISHMENT" MEANS AN ESTABLISHMENT IN WHICH A PERSON,
23 FIRM, ASSOCIATION OR CORPORATION ENGAGES IN OR PERMITS MASSAGE ACTIVITIES,
24 INCLUDING ANY METHOD OF PRESSURE ON, FRICTION AGAINST, STROKING, KNEADING,
25 RUBBING, TAPPING, POUNDING, VIBRATING OR STIMULATING OF EXTERNAL SOFT PARTS
26 OF THE BODY WITH THE HANDS OR WITH THE AID OF ANY MECHANICAL APPARATUS OR
27 ELECTRICAL APPARATUS OR APPLIANCE. THIS PARAGRAPH DOES NOT APPLY TO:

28 (a) PHYSICIANS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 7, 8,
29 13, 14 OR 17.

30 (b) REGISTERED NURSES, LICENSED PRACTICAL NURSES OR TECHNICIANS WHO
31 ARE ACTING UNDER THE SUPERVISION OF A PHYSICIAN WHO IS LICENSED PURSUANT TO
32 TITLE 32, CHAPTER 13 OR 17.

33 (c) REGISTERED NURSE PRACTITIONERS WHO ARE LICENSED PURSUANT TO TITLE
34 32, CHAPTER 15.

35 (d) PERSONS WHO ARE EMPLOYED OR ACTING AS TRAINERS FOR A BONA FIDE
36 AMATEUR, SEMIPROFESSIONAL OR PROFESSIONAL ATHLETE OR ATHLETIC TEAM.

37 (e) PERSONS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 3 OR 5 IF
38 THE ACTIVITY IS LIMITED TO THE HEAD, FACE OR NECK.

39 13. "NUDE MODEL STUDIO" MEANS A PLACE IN WHICH A PERSON WHO APPEARS IN
40 A STATE OF NUDITY OR WHO DISPLAYS SPECIFIC ANATOMICAL AREAS IS OBSERVED,
41 SKETCHED, DRAWN, PAINTED, SCULPTURED, PHOTOGRAPHED OR OTHERWISE DEPICTED BY
42 OTHER PERSONS WHO PAY MONEY OR OTHER CONSIDERATION. NUDE MODEL STUDIO DOES
43 NOT INCLUDE A PROPRIETARY SCHOOL THAT IS LICENSED BY THIS STATE, A COLLEGE,
44 COMMUNITY COLLEGE OR UNIVERSITY THAT IS SUPPORTED ENTIRELY OR IN PART BY
45 TAXATION, A PRIVATE COLLEGE OR UNIVERSITY THAT MAINTAINS AND OPERATES

1 EDUCATIONAL PROGRAMS IN WHICH CREDITS ARE TRANSFERABLE TO A COLLEGE,
2 COMMUNITY COLLEGE OR UNIVERSITY THAT IS SUPPORTED ENTIRELY OR IN PART BY
3 TAXATION OR A STRUCTURE TO WHICH THE FOLLOWING APPLY:

4 (a) A SIGN IS NOT VISIBLE FROM THE EXTERIOR OF THE STRUCTURE AND NO
5 OTHER ADVERTISING APPEARS INDICATING THAT A NUDE PERSON IS AVAILABLE FOR
6 VIEWING.

7 (b) A STUDENT MUST ENROLL AT LEAST THREE DAYS IN ADVANCE OF A CLASS IN
8 ORDER TO PARTICIPATE.

9 (c) NO MORE THAN ONE NUDE OR SEMINUDE MODEL IS ON THE PREMISES AT ANY
10 TIME.

11 14. "NUDE", "NUDITY" OR "STATE OF NUDITY" MEANS ANY OF THE FOLLOWING:

12 (a) THE APPEARANCE OF A HUMAN ANUS, GENITALS OR A FEMALE BREAST BELOW
13 A POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA.

14 (b) A STATE OF DRESS THAT FAILS TO OPAQUELY COVER A HUMAN ANUS,
15 GENITALS OR A FEMALE BREAST BELOW A POINT IMMEDIATELY ABOVE THE TOP OF THE
16 AREOLA.

17 15. "PRINCIPAL BUSINESS PURPOSES" MEANS THAT A COMMERCIAL ESTABLISHMENT
18 DERIVES FIFTY PER CENT OR MORE OF ITS GROSS INCOME FROM THE SALE OR RENTAL OF
19 ITEMS LISTED IN PARAGRAPH 2 OF THIS SUBSECTION.

20 16. "SEMINUDE" MEANS A STATE OF DRESS IN WHICH CLOTHING COVERS NO MORE
21 THAN THE GENITALS, PUBIC REGION AND FEMALE BREAST BELOW A POINT IMMEDIATELY
22 ABOVE THE TOP OF THE AREOLA, AS WELL AS PORTIONS OF THE BODY THAT ARE COVERED
23 BY SUPPORTING STRAPS OR DEVICES.

24 17. "SPECIFIC ANATOMICAL AREAS" MEANS ANY OF THE FOLLOWING:

25 (a) A HUMAN ANUS, GENITALS, THE PUBIC REGION OR A FEMALE BREAST BELOW
26 A POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA THAT IS LESS THAN COMPLETELY
27 AND OPAQUELY COVERED.

28 (b) MALE GENITALS IN A DISCERNIBLY TURGID STATE EVEN IF COMPLETELY
29 AND OPAQUELY COVERED.

30 18. "SPECIFIC SEXUAL ACTIVITIES" MEANS ANY OF THE FOLLOWING:

31 (a) HUMAN GENITALS IN A STATE OF SEXUAL STIMULATION OR AROUSAL.

32 (b) SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED, INCLUDING ACTS
33 OF HUMAN MASTURBATION, SEXUAL INTERCOURSE, ORAL COPULATION OR SODOMY.

34 (c) FONDLING OR OTHER EROTIC TOUCHING OF THE HUMAN GENITALS, PUBIC
35 REGION, BUTTOCKS, ANUS OR FEMALE BREAST.

36 (d) EXCRETORY FUNCTIONS AS PART OF OR IN CONNECTION WITH ANY OF THE
37 ACTIVITIES UNDER SUBDIVISION (a), (b) OR (c) OF THIS PARAGRAPH.

38 11-812. Restriction on regulation; exceptions; aggregate mining
39 regulation; definitions

40 A. NOTHING CONTAINED IN ANY ORDINANCE AUTHORIZED BY THIS CHAPTER
41 SHALL:

42 1. AFFECT EXISTING USES OF PROPERTY OR THE RIGHT TO ITS CONTINUED USE
43 OR THE REASONABLE REPAIR OR ALTERATION OF THE PROPERTY FOR THE PURPOSE FOR
44 WHICH USED AT THE TIME THE ORDINANCE AFFECTING THE PROPERTY TAKES EFFECT.

1 2. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
2 LAND OR IMPROVEMENTS FOR RAILROAD, MINING, METALLURGICAL, GRAZING OR GENERAL
3 AGRICULTURAL PURPOSES, IF THE TRACT CONCERNED IS FIVE OR MORE CONTIGUOUS
4 COMMERCIAL ACRES. FOR THE PURPOSES OF THIS PARAGRAPH, "MINING" HAS THE SAME
5 MEANING PRESCRIBED IN SECTION 27-301.

6 3. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
7 LAND OR IMPROVEMENTS FOR AGRICULTURAL COMPOSTING, IF THE TRACT IS FIVE OR
8 MORE CONTIGUOUS COMMERCIAL ACRES. AN AGRICULTURAL COMPOSTING OPERATION SHALL
9 NOTIFY IN WRITING THE BOARD OF SUPERVISORS AND THE NEAREST FIRE DEPARTMENT OF
10 THE LOCATION OF THE COMPOSTING OPERATION. IF THE NEAREST FIRE DEPARTMENT IS
11 LOCATED IN A CITY, TOWN OR FIRE DISTRICT WHERE THE AGRICULTURAL COMPOSTING IS
12 NOT LOCATED, THE AGRICULTURAL COMPOSTING OPERATION SHALL ALSO NOTIFY IN
13 WRITING THE FIRE DISTRICT IN WHICH THE OPERATION IS LOCATED. AGRICULTURAL
14 COMPOSTING IS SUBJECT TO SECTIONS 3-112 AND 49-141. FOR THE PURPOSES OF THIS
15 PARAGRAPH, "AGRICULTURAL COMPOSTING" HAS THE SAME MEANING PRESCRIBED IN
16 SECTION 9-462.01, SUBSECTION G.

17 B. A NONCONFORMING BUSINESS USE WITHIN A DISTRICT MAY EXPAND IF THE
18 EXPANSION DOES NOT EXCEED ONE HUNDRED PER CENT OF THE AREA OF THE ORIGINAL
19 BUSINESS.

20 C. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION,
21 MINING DOES NOT INCLUDE AGGREGATE MINING OPERATIONS IN AN AGGREGATE MINING
22 OPERATIONS ZONING DISTRICT ESTABLISHED PURSUANT TO THIS SECTION. THE BOARD
23 OF SUPERVISORS OF ANY COUNTY WITH A POPULATION OF MORE THAN TWO MILLION
24 PERSONS SHALL DESIGNATE AND ESTABLISH THE BOUNDARIES OF AN AGGREGATE MINING
25 OPERATIONS ZONING DISTRICT ON THE PETITION OF AT LEAST ONE HUNDRED PERSONS
26 WHO RESIDE WITHIN ONE-HALF MILE OF AN EXISTING AGGREGATE MINING OPERATION.
27 IN ADDITION, THE BOARD OF SUPERVISORS OF ANY COUNTY MAY ESTABLISH, IN ITS
28 DISCRETION AND ON THE BOARD'S INITIATIVE, ONE OR MORE AGGREGATE MINING
29 OPERATIONS ZONING DISTRICTS. AGGREGATE MINING OPERATIONS ZONING DISTRICTS
30 MAY ONLY BE LOCATED IN AREAS THAT ARE INVENTORIED AND MAPPED AS AREAS OF
31 KNOWN RESERVES OR IN AREAS WITH EXISTING AGGREGATE MINING OPERATIONS.
32 SUBJECT TO SUBSECTIONS E AND F OF THIS SECTION, A COUNTY AND THE STATE MINE
33 INSPECTOR MAY JOINTLY ADOPT, AS INTERNAL ADMINISTRATIVE REGULATIONS,
34 REASONABLE AGGREGATE MINING OPERATIONS ZONING DISTRICT STANDARDS LIMITED TO
35 PERMITTED USES, PROCEDURES FOR APPROVAL OF PROPERTY DEVELOPMENT PLANS AND
36 SITE DEVELOPMENT STANDARDS FOR DUST CONTROL, HEIGHT REGULATIONS, SETBACKS,
37 DAYS AND HOURS OF OPERATION, OFF-STREET PARKING, SCREENING, NOISE, VIBRATION
38 AND AIR POLLUTION CONTROL, SIGNS, ROADWAY ACCESS LANES, ARTERIAL HIGHWAY
39 PROTECTION AND PROPERTY RECLAMATION FOR WHICH AGGREGATE MINING OPERATIONS ARE
40 NOT OTHERWISE SUBJECT TO FEDERAL, STATE OR LOCAL REGULATION OR A GOVERNMENTAL
41 CONTRACTUAL OBLIGATION. REGULATIONS JOINTLY ADOPTED PURSUANT TO THIS
42 SUBSECTION BY THE COUNTY AND THE STATE MINE INSPECTOR SHALL NOT PROHIBIT THE
43 ACTIVITIES INCLUDED IN THE DEFINITION OF MINE PURSUANT TO SECTION 27-301,
44 PARAGRAPH 8 OR DUPLICATE, CONFLICT WITH OR BE MORE STRINGENT THAN APPLICABLE
45 FEDERAL, STATE OR LOCAL LAWS.

1 D. THE BOARD OF SUPERVISORS OF ANY COUNTY THAT ESTABLISHES AN
2 AGGREGATE MINING OPERATIONS ZONING DISTRICT SHALL APPOINT AN AGGREGATE MINING
3 OPERATIONS RECOMMENDATION COMMITTEE FOR THE DISTRICT. THE COMMITTEE CONSISTS
4 OF NOT MORE THAN SEVEN OPERATORS, OR REPRESENTATIVES OF OPERATORS, OF ACTIVE
5 AGGREGATE MINING OPERATIONS IN ANY DISTRICT WITHIN THE COUNTY AND AN EQUAL
6 NUMBER OF PRIVATE CITIZENS, WHO ARE NOT OPERATORS, WHO ARE NOT EMPLOYED BY
7 OPERATORS AND WHO DO NOT REPRESENT OPERATORS, RESIDING WITHIN THREE MILES OF
8 THE BOUNDARIES OF AGGREGATE MINING OPERATIONS OR A PROPOSED AGGREGATE MINING
9 OPERATION IN THE DISTRICT FOR WHICH THE COMMITTEE IS ESTABLISHED. THE
10 INITIAL MEMBERS APPOINTED TO THE COMMITTEE SHALL BE DEEMED THE PRIMARY
11 MEMBERS, AND THE BOARD OF SUPERVISORS SHALL APPOINT NO MORE THAN FIVE
12 ALTERNATE MEMBERS WHO REPRESENT OPERATORS AND SHALL APPOINT NO MORE THAN FIVE
13 ALTERNATE MEMBERS WHO ARE PRIVATE CITIZENS. ALTERNATE MEMBERS MAY SERVE AT
14 MEETINGS OF THE COMMITTEE WHEN A PRIMARY MEMBER IS UNABLE TO ATTEND. AN
15 AGGREGATE MINING OPERATOR MAY SERVE ON MORE THAN ONE COMMITTEE IN THE SAME
16 COUNTY. THE BOARD OF SUPERVISORS SHALL DETERMINE THE LENGTH OF TERMS OF
17 MEMBERS OF THE COMMITTEE AND SHALL STAGGER THE INITIAL APPOINTMENTS SO THAT
18 NOT ALL MEMBERS' TERMS EXPIRE AT THE SAME TIME. MEMBERS OF THE COMMITTEE WHO
19 NO LONGER QUALIFY FOR MEMBERSHIP AS PROVIDED BY THIS SUBSECTION ARE SUBJECT
20 TO REMOVAL AND REPLACEMENT BY THE BOARD OF SUPERVISORS. THE COMMITTEE SHALL
21 ELECT A MEMBER WHO IS AN AGGREGATE MINING OPERATOR TO SERVE AS CHAIRPERSON
22 FOR THE FIRST YEAR IN WHICH THE COMMITTEE IS CREATED. FOR EACH YEAR
23 THEREAFTER, THE CHAIRPERSON SHALL BE ELECTED BY THE MEMBERS OF THE COMMITTEE
24 WITH A MEMBER WHO IS A PRIVATE CITIZEN AND A MEMBER WHO IS AN AGGREGATE
25 MINING OPERATOR SERVING AS CHAIRPERSON IN ALTERNATE YEARS. THE COMMITTEE IS
26 SUBJECT TO THE OPEN MEETING REQUIREMENTS OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

27 E. WITHIN NINETY DAYS AFTER AN AGGREGATE MINING OPERATIONS
28 RECOMMENDATION COMMITTEE IS ESTABLISHED, THE COMMITTEE SHALL NOTIFY ALL
29 EXISTING AGGREGATE MINING OPERATORS IN THE DISTRICT OF THE APPLICATION OF
30 THIS SECTION AND TITLE 27, CHAPTER 3, ARTICLE 6 TO THE AGGREGATE MINING
31 OPERATION. IN ADDITION, THE COMMITTEE SHALL:

32 1. BY A MAJORITY VOTE OF ALL MEMBERS MAKE RECOMMENDATIONS TO THE BOARD
33 OF SUPERVISORS FOR AGGREGATE MINING ZONING DISTRICTS AND ADMINISTRATIVE
34 REGULATIONS AS PROVIDED IN THIS SECTION. THE BOARD OF SUPERVISORS MAY ADOPT
35 OR REJECT THE RECOMMENDATIONS BUT MAY NOT MAKE ANY MODIFICATIONS TO THE
36 RECOMMENDATIONS UNLESS THE MODIFICATION IS APPROVED BY A MAJORITY OF THE
37 MEMBERS OF THE RECOMMENDATION COMMITTEE.

38 2. SERVE AS A FORUM FOR MEDIATION OF DISPUTES BETWEEN MEMBERS OF THE
39 PUBLIC AND AGGREGATE MINING OWNERS OR OPERATORS. IF THE COMMITTEE IS UNABLE
40 TO RESOLVE A DISPUTE, THE COMMITTEE SHALL TRANSMIT THE MATTER TO THE STATE
41 MINE INSPECTOR, WITH WRITTEN FINDINGS AND RECOMMENDATIONS, FOR FURTHER
42 ACTION.

43 3. HEAR WRITTEN COMPLAINTS FILED WITH THE STATE MINE INSPECTOR
44 REGARDING ALLEGED MATERIAL DEVIATIONS FROM APPROVED COMMUNITY NOTICES FOR

1 AGGREGATE MINING OPERATIONS AND MAKE WRITTEN RECOMMENDATIONS TO THE STATE
2 MINE INSPECTOR PURSUANT TO SECTION 27-446.

3 F. ANY ADMINISTRATIVE REGULATIONS ADOPTED BY A BOARD OF SUPERVISORS
4 PURSUANT TO THIS SECTION ARE NOT EFFECTIVE UNTIL THE REGULATIONS ARE APPROVED
5 BY THE STATE MINE INSPECTOR. THE INSPECTOR MAY DISAPPROVE THE ADMINISTRATIVE
6 REGULATIONS ADOPTED BY THE BOARD OF SUPERVISORS ONLY IF THEY DUPLICATE,
7 CONFLICT WITH OR ARE MORE STRINGENT THAN APPLICABLE FEDERAL, STATE OR LOCAL
8 LAWS, RULES OR REGULATIONS. IF THE INSPECTOR DISAPPROVES THE ADMINISTRATIVE
9 REGULATIONS, THE INSPECTOR MUST PROVIDE WRITTEN REASONS FOR THE DISAPPROVAL.
10 THE INSPECTOR SHALL NOT MAKE ANY MODIFICATION TO THE ADMINISTRATIVE
11 REGULATIONS AS ADOPTED BY THE BOARD OF SUPERVISORS UNLESS THE MODIFICATION IS
12 APPROVED BY A MAJORITY OF THE MEMBERS OF THE BOARD OF SUPERVISORS.

13 G. A PERSON OR ENTITY IS SUBJECT TO THIS CHAPTER IF THE USE OR
14 OCCUPATION OF LAND OR IMPROVEMENTS BY THE PERSON OR ENTITY CONSISTS OF OR
15 INCLUDES CHANGING, REMANUFACTURING OR TREATING HUMAN SEWAGE OR SLUDGE FOR
16 DISTRIBUTION OR RESALE. THESE ACTIVITIES ARE NOT EXEMPT FROM THIS CHAPTER
17 UNDER SUBSECTION A, PARAGRAPH 2 OF THIS SECTION.

18 H. A COUNTY SHALL NOT REQUIRE AS A CONDITION FOR A PERMIT OR FOR ANY
19 APPROVAL, OR OTHERWISE CAUSE, AN OWNER OR POSSESSOR OF PROPERTY TO WAIVE THE
20 RIGHT TO CONTINUE AN EXISTING NONCONFORMING OUTDOOR ADVERTISING USE OR
21 STRUCTURE WITHOUT ACQUIRING THE USE OR STRUCTURE BY PURCHASE OR CONDEMNATION
22 AND PAYING JUST COMPENSATION UNLESS THE COUNTY, AT ITS OPTION, ALLOWS THE USE
23 OR STRUCTURE TO BE RELOCATED TO A COMPARABLE SITE IN THE COUNTY WITH THE SAME
24 OR A SIMILAR ZONING CLASSIFICATION, OR TO ANOTHER SITE IN THE COUNTY
25 ACCEPTABLE TO BOTH THE COUNTY AND THE OWNER OF THE USE OR STRUCTURE, AND THE
26 USE OR STRUCTURE IS RELOCATED TO THE OTHER SITE. THE COUNTY SHALL PAY FOR
27 RELOCATING THE OUTDOOR ADVERTISING USE OR STRUCTURE INCLUDING THE COST OF
28 REMOVING AND CONSTRUCTING THE NEW USE OR STRUCTURE THAT IS AT LEAST THE SAME
29 SIZE AND HEIGHT. THIS SUBSECTION DOES NOT APPLY TO COUNTY REZONING OF
30 PROPERTY AT THE REQUEST OF THE PROPERTY OWNER TO A MORE INTENSIVE ZONING
31 DISTRICT.

32 I. FOR THE PURPOSES OF THIS SECTION:

33 1. "AGGREGATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 27-441.

34 2. "AGGREGATE MINING" HAS THE SAME MEANING PRESCRIBED IN SECTION
35 27-441.

36 3. "AGGREGATE MINING OPERATION" MEANS PROPERTY THAT IS OWNED, OPERATED
37 OR MANAGED BY THE SAME PERSON FOR AGGREGATE MINING.

38 4. "OPERATORS" MEANS PERSONS WHO ARE ACTIVELY ENGAGED IN AGGREGATE
39 MINING OPERATIONS WITHIN THE ZONING DISTRICT OR PROPOSED ZONING DISTRICT AND
40 WHO HAVE GIVEN NOTICE TO THE STATE MINE INSPECTOR PURSUANT TO SECTION 27-303.

41 11-813. Zoning ordinance; adoption; amendments; notice; hearing

42 A. THE COMMISSION SHALL FORMULATE AND DRAFT THE ZONING ORDINANCE.
43 BEFORE RECOMMENDING THE ZONING ORDINANCE TO THE BOARD OF SUPERVISORS FOR
44 ADOPTION, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING, AFTER GIVING

1 AT LEAST FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A
2 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT.

3 B. AFTER THE COMMISSION RECOMMENDS THE ZONING ORDINANCE, THE ZONING
4 ORDINANCE SHALL BE SUBMITTED TO THE BOARD OF SUPERVISORS FOR ITS
5 CONSIDERATION AND OFFICIAL ACTION. AFTER THE BOARD CONSIDERS THE
6 COMMISSION'S RECOMMENDATION, THE BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING
7 AT WHICH RESIDENTS OF THE COUNTY SHALL BE HEARD CONCERNING THE ZONING
8 ORDINANCE. AT LEAST FIFTEEN DAYS NOTICE OF THE HEARING SHALL BE GIVEN BY ONE
9 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT. THE
10 BOARD SHALL CONSIDER PROTESTS AND OBJECTIONS TO THE ZONING ORDINANCE AND MAY
11 CHANGE OR ALTER ANY PORTION OF THE ZONING ORDINANCE.

12 C. A PROPERTY OWNER OR AUTHORIZED AGENT OF A PROPERTY OWNER DESIRING A
13 ZONING REGULATIONS AMENDMENT SHALL FILE AN APPLICATION FOR THE AMENDMENT.

14 D. THE COMMISSION, ON ITS OWN MOTION, MAY PROPOSE A ZONING REGULATIONS
15 AMENDMENT AND, AFTER HOLDING A PUBLIC HEARING AS REQUIRED BY THIS CHAPTER,
16 MAY TRANSMIT THE PROPOSAL TO THE BOARD, WHICH SHALL PROCEED AS PRESCRIBED IN
17 THIS CHAPTER FOR ANY OTHER AMENDMENT.

18 E. ON RECEIPT OF THE APPLICATION THE BOARD SHALL SUBMIT THE
19 APPLICATION TO THE COMMISSION FOR A REPORT. BEFORE REPORTING TO THE BOARD,
20 THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING AFTER GIVING AT LEAST
21 FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A NEWSPAPER OF
22 GENERAL CIRCULATION IN THE COUNTY SEAT. THE FOLLOWING SPECIFIC NOTICE
23 PROVISIONS ALSO APPLY:

24 1. IN PROCEEDINGS INVOLVING ONE OR MORE OF THE FOLLOWING PROPOSED
25 CHANGES OR RELATED SERIES OF CHANGES IN THE STANDARDS GOVERNING LAND USES,
26 NOTICE SHALL BE PROVIDED IN THE MANNER PRESCRIBED BY PARAGRAPH 2 OF THIS
27 SUBSECTION:

28 (a) A TEN PER CENT OR MORE INCREASE OR DECREASE IN THE NUMBER OF
29 SQUARE FEET OR UNITS THAT MAY BE DEVELOPED.

30 (b) A TEN PER CENT OR MORE INCREASE OR REDUCTION IN THE ALLOWABLE
31 HEIGHT OF BUILDINGS.

32 (c) AN INCREASE OR REDUCTION IN THE ALLOWABLE NUMBER OF STORIES OF
33 BUILDINGS.

34 (d) A TEN PER CENT OR MORE INCREASE OR DECREASE IN SETBACK OR OPEN
35 SPACE REQUIREMENTS.

36 (e) AN INCREASE OR REDUCTION IN PERMITTED USES.

37 2. IN PROCEEDINGS GOVERNED BY PARAGRAPH 1 OF THIS SUBSECTION, THE
38 COUNTY SHALL PROVIDE NOTICE TO REAL PROPERTY OWNERS PURSUANT TO AT LEAST ONE
39 OF THE FOLLOWING NOTIFICATION PROCEDURES:

40 (a) NOTICE SHALL BE SENT BY FIRST CLASS MAIL TO EACH REAL PROPERTY
41 OWNER, AS SHOWN ON THE LAST ASSESSMENT, WHOSE REAL PROPERTY IS DIRECTLY
42 AFFECTED BY THE CHANGES.

43 (b) IF THE COUNTY ISSUES UTILITY BILLS OR OTHER MASS MAILINGS THAT
44 PERIODICALLY INCLUDE NOTICES OR OTHER INFORMATIONAL OR ADVERTISING MATERIALS,

1 THE COUNTY SHALL INCLUDE NOTICE OF THE CHANGES WITH THE UTILITY BILLS OR
2 OTHER MAILINGS.

3 (c) THE COUNTY SHALL PUBLISH THE CHANGES BEFORE THE FIRST HEARING ON
4 THE CHANGES IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE CHANGES
5 SHALL BE PUBLISHED IN A DISPLAY ADVERTISEMENT COVERING NOT LESS THAN
6 ONE-EIGHTH OF A FULL PAGE.

7 3. IF NOTICE IS PROVIDED PURSUANT TO PARAGRAPH 2, SUBDIVISION (b) OR
8 (c) OF THIS SUBSECTION, THE COUNTY SHALL ALSO SEND NOTICE BY FIRST CLASS MAIL
9 TO PERSONS WHO REGISTER THEIR NAMES AND ADDRESSES WITH THE COUNTY AS BEING
10 INTERESTED IN RECEIVING THE NOTICE. THE COUNTY MAY CHARGE A FEE NOT TO
11 EXCEED FIVE DOLLARS PER YEAR FOR PROVIDING THIS SERVICE AND MAY ADOPT
12 PROCEDURES TO IMPLEMENT THIS PARAGRAPH.

13 4. NOTWITHSTANDING THE NOTICE REQUIREMENTS PRESCRIBED IN PARAGRAPH 2
14 OF THIS SUBSECTION, THE FAILURE OF ANY PERSON OR ENTITY TO RECEIVE NOTICE
15 DOES NOT CONSTITUTE GROUNDS FOR ANY COURT TO INVALIDATE THE ACTIONS OF A
16 COUNTY FOR WHICH THE NOTICE WAS GIVEN.

17 F. AFTER THE COMMISSION HAS HELD A PUBLIC HEARING, THE BOARD SHALL
18 HOLD A PUBLIC HEARING ON THE PROPOSED AMENDMENT AT LEAST FIFTEEN DAYS' NOTICE
19 OF WHICH SHALL BE GIVEN BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL
20 CIRCULATION IN THE COUNTY SEAT. AFTER HOLDING THE HEARING, THE BOARD MAY
21 ADOPT THE AMENDMENT.

22 G. NOTWITHSTANDING TITLE 19, CHAPTER 1, ARTICLE 4, A DECISION BY THE
23 GOVERNING BODY THAT CHANGES THE ZONING STANDARDS OF LAND THAT IS NOT OWNED BY
24 THE COUNTY AS PRESCRIBED IN SUBSECTION E, PARAGRAPH 1 OF THIS SECTION MAY NOT
25 BE ENACTED AS AN EMERGENCY MEASURE AND SUCH A CHANGE SHALL NOT BE EFFECTIVE
26 FOR AT LEAST THIRTY DAYS AFTER FINAL APPROVAL OF THE CHANGE IN CLASSIFICATION
27 BY THE BOARD. UNLESS A RESIDENT FILES A WRITTEN OBJECTION WITH THE BOARD OF
28 SUPERVISORS, THE CHANGE MAY BE ENACTED AS AN EMERGENCY MEASURE THAT BECOMES
29 EFFECTIVE IMMEDIATELY BY A FOUR-FIFTHS MAJORITY VOTE OF THE BOARD FOR THOSE
30 COUNTIES WITH FIVE OR MORE SUPERVISORS OR A TWO-THIRDS MAJORITY VOTE OF THE
31 BOARD FOR THOSE COUNTIES WITH FEWER THAN FIVE SUPERVISORS.

32 11-814. Rezoning; conditional zoning change; notice; hearing;
33 citizen review; definition

34 A. ALL REZONINGS ADOPTED UNDER THIS ARTICLE SHALL BE CONSISTENT WITH
35 AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN. IN THE CASE OF UNCERTAINTY IN
36 CONSTRUCTING OR APPLYING THE CONFORMITY OF ANY PART OF A PROPOSED REZONING TO
37 THE ADOPTED COMPREHENSIVE PLAN, THE REZONING SHALL BE CONSTRUED IN A MANNER
38 THAT WILL FURTHER THE IMPLEMENTATION OF, AND NOT BE CONTRARY TO, THE GOALS,
39 POLICIES AND APPLICABLE ELEMENTS OF THE COMPREHENSIVE PLAN. A REZONING
40 CONFORMS WITH THE COMPREHENSIVE PLAN IF IT PROPOSES LAND USES, DENSITIES OR
41 INTENSITIES WITHIN THE RANGE OF IDENTIFIED USES, DENSITIES AND INTENSITIES OF
42 THE COMPREHENSIVE PLAN.

43 B. A PROPERTY OWNER OR AUTHORIZED AGENT OF A PROPERTY OWNER DESIRING A
44 REZONING SHALL FILE AN APPLICATION FOR THE REZONING.

1 C. THE COMMISSION, ON ITS OWN MOTION, MAY PROPOSE A REZONING AND,
2 AFTER HOLDING A PUBLIC HEARING AS REQUIRED BY THIS CHAPTER, MAY TRANSMIT THE
3 PROPOSAL TO THE BOARD, WHICH SHALL PROCEED AS PRESCRIBED IN THIS CHAPTER FOR
4 ANY OTHER REZONING.

5 D. ON RECEIPT OF THE APPLICATION THE BOARD SHALL SUBMIT THE
6 APPLICATION TO THE COMMISSION FOR A REPORT. BEFORE REPORTING TO THE BOARD,
7 THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING AFTER GIVING AT LEAST
8 FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A NEWSPAPER OF
9 GENERAL CIRCULATION IN THE COUNTY SEAT AND BY POSTING OF THE AREA INCLUDED IN
10 THE PROPOSED REZONING. IF THE MATTER TO BE CONSIDERED APPLIES TO TERRITORY
11 IN A HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461, THE
12 NOTICE SHALL INCLUDE A GENERAL STATEMENT THAT THE MATTER APPLIES TO PROPERTY
13 LOCATED IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE. THE POSTING SHALL BE
14 IN NO LESS THAN TWO PLACES WITH AT LEAST ONE NOTICE FOR EACH QUARTER MILE OF
15 FRONTAGE ALONG PERIMETER PUBLIC RIGHTS-OF-WAY SO THAT THE NOTICES ARE VISIBLE
16 FROM THE NEAREST PUBLIC RIGHT-OF-WAY. THE COMMISSION SHALL ALSO SEND NOTICE
17 BY FIRST CLASS MAIL TO EACH REAL PROPERTY OWNER AS SHOWN ON THE LAST
18 ASSESSMENT OF THE PROPERTY WITHIN THREE HUNDRED FEET OF THE PROPOSED REZONING
19 AND EACH COUNTY AND MUNICIPALITY THAT IS CONTIGUOUS TO THE AREA OF THE
20 PROPOSED REZONING. IN PROCEEDINGS INVOLVING REZONING OF LAND THAT IS LOCATED
21 WITHIN TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY
22 FACILITY AS DEFINED IN SECTION 28-8461, THE COMMISSION SHALL SEND COPIES OF
23 THE NOTICE OF PUBLIC HEARING BY FIRST CLASS MAIL TO THE MILITARY AIRPORT.
24 THE NOTICE SENT BY MAIL SHALL INCLUDE, AT A MINIMUM, THE DATE, TIME AND PLACE
25 OF THE HEARING ON THE PROPOSED REZONING INCLUDING A GENERAL EXPLANATION OF
26 THE MATTER TO BE CONSIDERED, A GENERAL DESCRIPTION OF THE AREA OF THE
27 PROPOSED REZONING, HOW THE REAL PROPERTY OWNERS WITHIN THE ZONING AREA MAY
28 FILE APPROVALS OR PROTESTS OF THE PROPOSED REZONING, AND NOTIFICATION THAT IF
29 TWENTY PER CENT OF THE PROPERTY OWNERS BY AREA AND NUMBER WITHIN THE ZONING
30 AREA FILE PROTESTS, AN AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL MEMBERS OF
31 THE BOARD WILL BE REQUIRED TO APPROVE THE REZONING. IN PROCEEDINGS THAT ARE
32 INITIATED BY THE COMMISSION INVOLVING REZONING, NOTICE BY FIRST CLASS MAIL
33 SHALL BE SENT TO EACH REAL PROPERTY OWNER, AS SHOWN ON THE LAST ASSESSMENT OF
34 THE PROPERTY, OF THE AREA TO BE REZONED AND ALL PROPERTY OWNERS, AS SHOWN ON
35 THE LAST ASSESSMENT OF THE PROPERTY, WITHIN THREE HUNDRED FEET OF THE
36 PROPERTY TO BE REZONED.

37 E. IF THE COMMISSION OR HEARING OFFICER HAS HELD A PUBLIC HEARING, THE
38 BOARD MAY ADOPT THE RECOMMENDATIONS OF THE COMMISSION OR HEARING OFFICER
39 THROUGH USE OF A CONSENT CALENDAR WITHOUT HOLDING A SECOND PUBLIC HEARING IF
40 THERE IS NO OBJECTION, REQUEST FOR PUBLIC HEARING OR OTHER PROTEST. IF THERE
41 IS AN OBJECTION, A REQUEST FOR PUBLIC HEARING OR A PROTEST, THE BOARD SHALL
42 HOLD A PUBLIC HEARING AT LEAST FIFTEEN DAYS' NOTICE OF WHICH SHALL BE GIVEN
43 BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT
44 AND BY POSTING THE AREA INCLUDED IN THE PROPOSED REZONING. IN COUNTIES WITH
45 TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY

1 FACILITY AS DEFINED IN SECTION 28-8461, THE BOARD SHALL HOLD A PUBLIC HEARING
2 IF, AFTER NOTICE IS MAILED TO THE MILITARY AIRPORT PURSUANT TO SUBSECTION D
3 OF THIS SECTION AND BEFORE THE PUBLIC HEARING, THE MILITARY AIRPORT PROVIDES
4 COMMENTS OR ANALYSIS CONCERNING THE COMPATIBILITY OF THE PROPOSED REZONING
5 WITH THE HIGH NOISE OR ACCIDENT POTENTIAL GENERATED BY MILITARY AIRPORT OR
6 ANCILLARY MILITARY FACILITY OPERATIONS THAT MAY HAVE AN ADVERSE IMPACT ON
7 PUBLIC HEALTH AND SAFETY, AND THE BOARD SHALL CONSIDER AND ANALYZE THE
8 COMMENTS OR ANALYSIS BEFORE MAKING A FINAL DETERMINATION. AFTER HOLDING THE
9 HEARING THE BOARD MAY ADOPT THE REZONING, BUT IF TWENTY PER CENT OF THE
10 OWNERS OF PROPERTY BY AREA AND NUMBER WITHIN THE ZONING AREA FILE A PROTEST
11 TO THE PROPOSED REZONING, THE CHANGE SHALL NOT BE MADE EXCEPT BY A
12 THREE-FOURTHS VOTE OF ALL MEMBERS OF THE BOARD. IF ANY MEMBERS OF THE BOARD
13 ARE UNABLE TO VOTE ON THE QUESTION BECAUSE OF A CONFLICT OF INTEREST, THE
14 REQUIRED NUMBER OF VOTES FOR THE PASSAGE OF THE QUESTION IS THREE-FOURTHS OF
15 THE REMAINING MEMBERSHIP OF THE BOARD, EXCEPT THAT THE REQUIRED NUMBER OF
16 VOTES IN NO EVENT SHALL BE LESS THAN A MAJORITY OF THE FULL MEMBERSHIP OF THE
17 BOARD. IN CALCULATING THE OWNERS BY AREA, ONLY THAT PORTION OF A LOT OR
18 PARCEL OF RECORD SITUATED WITHIN THREE HUNDRED FEET OF THE PROPERTY TO BE
19 REZONED SHALL BE INCLUDED. IN CALCULATING THE OWNERS BY NUMBER OR AREA,
20 COUNTY PROPERTY AND PUBLIC RIGHTS-OF-WAY SHALL NOT BE INCLUDED.

21 F. THE BOARD OF SUPERVISORS SHALL ADOPT BY ORDINANCE A CITIZEN REVIEW
22 PROCESS THAT APPLIES TO ALL REZONING AND SPECIFIC ZONING PLAN APPLICATIONS
23 THAT REQUIRE A PUBLIC HEARING. THE CITIZEN REVIEW PROCESS SHALL INCLUDE AT
24 LEAST THE FOLLOWING REQUIREMENTS:

25 1. ADJACENT LANDOWNERS AND OTHER POTENTIALLY AFFECTED CITIZENS WILL BE
26 NOTIFIED OF THE APPLICATION.

27 2. THE COUNTY WILL INFORM ADJACENT LANDOWNERS AND OTHER POTENTIALLY
28 AFFECTED CITIZENS OF THE SUBSTANCE OF THE PROPOSED REZONING.

29 3. ADJACENT LANDOWNERS AND OTHER POTENTIALLY AFFECTED CITIZENS WILL BE
30 PROVIDED AN OPPORTUNITY TO EXPRESS ANY ISSUES OR CONCERNS THAT THEY MAY HAVE
31 WITH THE PROPOSED REZONING BEFORE THE PUBLIC HEARING.

32 G. THE REZONING OR SUBDIVISION PLAT OF ANY UNINCORPORATED AREA
33 COMPLETELY SURROUNDED BY A CITY OR TOWN SHALL USE AS A GUIDELINE THE ADOPTED
34 GENERAL PLAN AND STANDARDS AS PRESCRIBED IN THE SUBDIVISION AND ZONING
35 ORDINANCES OF THE CITY OR TOWN AFTER APRIL 10, 1986.

36 H. THE BOARD OR COMMISSION, BEFORE TAKING ANY ACTION ON A REZONING OR
37 SUBDIVISION PLAT IN AN AREA AS PRESCRIBED IN SUBSECTION G OF THIS SECTION,
38 MAY REQUIRE THE AFFECTED CITY OR TOWN TO SUPPLY INFORMATION TO ALLOW THE
39 COUNTY TO MEET THE GUIDELINE. IF AN AFFECTED CITY OR TOWN OBJECTS TO ANY
40 SUCH PROPOSED ACTION THE BOARD OR COMMISSION SHALL PRESCRIBE IN THE MINUTES
41 OF THE MEETING SPECIFIC REASONS WHY IN ITS OPINION THE GUIDELINE IS ACTUALLY
42 BEING FOLLOWED OR WHY IT IS NOT PRACTICABLE TO FOLLOW THE GUIDELINE OF THE
43 GENERAL PLAN.

44 I. THE BOARD MAY APPROVE A CHANGE OF ZONE CONDITIONED ON A SCHEDULE
45 FOR DEVELOPMENT OF THE SPECIFIC USE OR USES FOR WHICH REZONING IS REQUESTED.

1 IF AT THE EXPIRATION OF THIS PERIOD THE PROPERTY HAS NOT BEEN IMPROVED FOR
2 THE USE FOR WHICH IT WAS CONDITIONALLY APPROVED, THE BOARD AFTER NOTIFICATION
3 BY CERTIFIED MAIL TO THE OWNER AND APPLICANT WHO REQUESTED THE REZONING SHALL
4 SCHEDULE A PUBLIC HEARING TO GRANT AN EXTENSION, DETERMINE COMPLIANCE WITH
5 THE SCHEDULE FOR DEVELOPMENT OR CAUSE THE PROPERTY TO REVERT TO ITS FORMER
6 ZONING CLASSIFICATION.

7 J. THE LEGISLATURE FINDS THAT A REZONING OF LAND THAT CHANGES THE
8 ZONING CLASSIFICATION OF THE LAND OR THAT RESTRICTS THE USE OR REDUCES THE
9 VALUE OF THE LAND IS A MATTER OF STATEWIDE CONCERN. SUCH A CHANGE IN ZONING
10 THAT IS INITIATED BY THE GOVERNING BODY OR ZONING BODY SHALL NOT BE MADE
11 WITHOUT THE EXPRESS WRITTEN CONSENT OF THE PROPERTY OWNER. IN APPLYING AN
12 OPEN SPACE ELEMENT OR A GROWTH ELEMENT OF A COMPREHENSIVE PLAN, A PARCEL OF
13 LAND SHALL NOT BE REZONED FOR OPEN SPACE, RECREATION, CONSERVATION OR
14 AGRICULTURE UNLESS THE OWNER OF THE LAND CONSENTS TO THE REZONING IN WRITING.
15 FOR THE PURPOSES OF THIS SUBSECTION, REZONING DOES NOT INCLUDE THE CREATION
16 OR EXPANSION OF OVERLAY ZONES SOLELY FOR THE PURPOSE OF IMPLEMENTING AIRPORT
17 SAFETY AND PROTECTION. REZONING ALSO DOES NOT INCLUDE THE REDESIGNATION OF
18 AREAS OF THE COUNTY TO WHICH THE RESIDENTIAL PROVISIONS OF THE COUNTY
19 BUILDING CODES APPLY OR DO NOT APPLY. THE COUNTY SHALL NOT ADOPT ANY CHANGE
20 IN A ZONING CLASSIFICATION TO CIRCUMVENT THE PURPOSE OF THIS SUBSECTION.

21 K. NOTWITHSTANDING TITLE 19, CHAPTER 1, ARTICLE 4, A DECISION BY THE
22 GOVERNING BODY INVOLVING REZONING OF LAND THAT IS NOT OWNED BY THE COUNTY AND
23 THAT CHANGES THE ZONING CLASSIFICATION OF THE LAND MAY NOT BE ENACTED AS AN
24 EMERGENCY MEASURE AND SUCH A CHANGE SHALL NOT BE EFFECTIVE FOR AT LEAST
25 THIRTY DAYS AFTER FINAL APPROVAL OF THE CHANGE IN CLASSIFICATION BY THE
26 BOARD. UNLESS A RESIDENT FILES A WRITTEN OBJECTION WITH THE BOARD OF
27 SUPERVISORS, THE REZONING MAY BE ENACTED AS AN EMERGENCY MEASURE THAT BECOMES
28 EFFECTIVE IMMEDIATELY BY A FOUR-FIFTHS MAJORITY VOTE OF THE BOARD FOR THOSE
29 COUNTIES WITH FIVE OR MORE SUPERVISORS OR A TWO-THIRDS MAJORITY VOTE OF THE
30 BOARD FOR THOSE COUNTIES WITH LESS THAN FIVE SUPERVISORS.

31 L. FOR THE PURPOSES OF THIS SECTION, "ZONING AREA" MEANS THE AREA
32 WITHIN THREE HUNDRED FEET OF THE PROPOSED AMENDMENT OR CHANGE.

33 11-815. Enforcement; county zoning inspector; deputies;
34 building permits; violations; classification; civil
35 penalties; hearing officers and procedures

36 A. THE COUNTY ZONING ORDINANCE SHALL PROVIDE FOR ITS ENFORCEMENT
37 WITHIN A ZONED TERRITORY BY MEANS OF WITHHOLDING BUILDING PERMITS, AND FOR
38 SUCH PURPOSES MAY ESTABLISH THE POSITION OF COUNTY ZONING INSPECTOR, AND SUCH
39 DEPUTY INSPECTORS AS MAY BE REQUIRED, WHO SHALL BE APPOINTED BY THE BOARD.

40 B. AFTER THE ESTABLISHMENT AND FILLING OF THE POSITION, IT IS UNLAWFUL
41 TO ERECT, CONSTRUCT, RECONSTRUCT, ALTER OR USE ANY BUILDING OR OTHER
42 STRUCTURE WITHIN A ZONING DISTRICT COVERED BY THE ORDINANCE WITHOUT FIRST
43 OBTAINING A BUILDING PERMIT FROM THE INSPECTOR AND FOR THAT PURPOSE THE
44 APPLICANT SHALL PROVIDE THE ZONING INSPECTOR WITH A SKETCH OF THE PROPOSED
45 CONSTRUCTION CONTAINING SUFFICIENT INFORMATION FOR THE ENFORCEMENT OF THE

1 ZONING ORDINANCE. A PERMIT IS NOT REQUIRED FOR REPAIRS OR IMPROVEMENTS OF A
2 VALUE NOT EXCEEDING FIVE HUNDRED DOLLARS. REASONABLE FEES MAY BE CHARGED FOR
3 THE ISSUANCE OF A PERMIT. THE INSPECTOR SHALL RECOGNIZE THE LIMITATIONS
4 PLACED ON THE INSPECTOR'S AUTHORITY BY SECTIONS 11-804 AND 11-811, AND SHALL
5 ISSUE THE PERMIT WHEN IT APPEARS THAT THE PROPOSED ERECTION, CONSTRUCTION,
6 RECONSTRUCTION, ALTERATION OR USE FULLY CONFORMS TO THE ZONING ORDINANCE. IN
7 ANY OTHER CASE THE INSPECTOR SHALL WITHHOLD THE PERMIT.

8 C. IT IS UNLAWFUL TO ERECT, CONSTRUCT, RECONSTRUCT, MAINTAIN OR USE
9 ANY LAND IN ANY ZONING DISTRICT IN VIOLATION OF ANY REGULATION OR ANY
10 PROVISION OF ANY ORDINANCE PERTAINING THERETO AND ANY VIOLATION CONSTITUTES A
11 PUBLIC NUISANCE. ANY PERSON, FIRM OR CORPORATION VIOLATING AN ORDINANCE, OR
12 ANY PART OF THE ORDINANCE, IS GUILTY OF A CLASS 2 MISDEMEANOR. EACH DAY
13 DURING WHICH THE ILLEGAL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION,
14 MAINTENANCE OR USE CONTINUES IS A SEPARATE OFFENSE.

15 D. A COUNTY MAY ESTABLISH CIVIL PENALTIES FOR A VIOLATION OF ANY
16 ZONING REGULATION OR ORDINANCE. CIVIL PENALTIES SHALL NOT EXCEED THE AMOUNT
17 OF THE MAXIMUM FINE FOR A CLASS 2 MISDEMEANOR. EACH DAY OF CONTINUANCE OF
18 THE VIOLATION CONSTITUTES A SEPARATE VIOLATION. IF AN ALLEGED VIOLATOR IS
19 SERVED WITH A NOTICE OF VIOLATION PURSUANT TO SUBSECTION E OF THIS SECTION,
20 THE ALLEGED VIOLATOR IS NOT SUBJECT TO A CRIMINAL CHARGE ARISING OUT OF THE
21 SAME FACTS.

22 E. A COUNTY THAT ESTABLISHES A CIVIL PENALTY FOR VIOLATION OF A ZONING
23 REGULATION OR ORDINANCE MAY APPOINT HEARING OFFICERS TO HEAR AND DETERMINE
24 ZONING VIOLATIONS. IF THE ZONING INSPECTOR REPORTS A ZONING VIOLATION TO THE
25 HEARING OFFICER, THE HEARING OFFICER SHALL HOLD A HEARING AFTER SERVING
26 NOTICE OF THE HEARING ON THE ALLEGED VIOLATOR. THE NOTICE SHALL BE
27 PERSONALLY SERVED ON THE ALLEGED VIOLATOR BY THE ZONING INSPECTOR AT LEAST
28 FIVE DAYS BEFORE THE HEARING. IF THE ZONING INSPECTOR IS UNABLE TO
29 PERSONALLY SERVE THE NOTICE, THE NOTICE MAY BE SERVED IN THE SAME MANNER
30 PRESCRIBED FOR ALTERNATIVE METHODS OF SERVICE BY THE ARIZONA RULES OF CIVIL
31 PROCEDURE. A NOTICE SERVED ON THE ALLEGED VIOLATOR OTHER THAN BY PERSONAL
32 SERVICE SHALL BE SERVED AT LEAST THIRTY DAYS BEFORE THE HEARING.

33 F. AT THE HEARING, THE ZONING INSPECTOR SHALL PRESENT EVIDENCE SHOWING
34 THE EXISTENCE OF A ZONING VIOLATION AND THE ALLEGED VIOLATOR OR THE ALLEGED
35 VIOLATOR'S ATTORNEY OR OTHER DESIGNATED REPRESENTATIVE SHALL BE GIVEN A
36 REASONABLE OPPORTUNITY TO PRESENT EVIDENCE. THE COUNTY ATTORNEY MAY PRESENT
37 EVIDENCE ON BEHALF OF THE ZONING INSPECTOR. AT THE CONCLUSION OF THE
38 HEARING, THE HEARING OFFICER SHALL DETERMINE WHETHER A ZONING VIOLATION
39 EXISTS AND, IF A VIOLATION IS FOUND TO EXIST, MAY IMPOSE CIVIL PENALTIES
40 PURSUANT TO SUBSECTION D OF THIS SECTION.

41 G. A HEARING OFFICER MAY BE AN EMPLOYEE OF THE COUNTY AND SHALL BE
42 APPOINTED BY THE BOARD OF SUPERVISORS. A REVIEW OF DECISIONS OF THE HEARING
43 OFFICER BY THE BOARD OF SUPERVISORS SHALL BE AVAILABLE TO ANY PARTY TO THE
44 HEARING. THE BOARD OF SUPERVISORS SHALL ADOPT WRITTEN RULES OF PROCEDURE FOR
45 THE HEARING AND REVIEW OF HEARINGS, WHICH SHALL BE ADOPTED IN THE SAME MANNER

1 AS ZONING ORDINANCES. JUDICIAL REVIEW OF THE FINAL DECISIONS OF THE BOARD OF
2 SUPERVISORS SHALL BE PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. A COUNTY
3 THAT ESTABLISHES CIVIL PENALTIES FOR A VIOLATION OF A ZONING REGULATION OR
4 ORDINANCE IS NOT PRECLUDED FROM PURSUING THE REMEDIES AS PROVIDED FOR IN
5 SUBSECTION H OF THIS SECTION.

6 H. IF ANY BUILDING OR STRUCTURE IS OR IS PROPOSED TO BE ERECTED,
7 CONSTRUCTED, RECONSTRUCTED, ALTERED, MAINTAINED OR USED OR ANY LAND IS OR IS
8 PROPOSED TO BE USED IN VIOLATION OF THIS CHAPTER OR ANY ORDINANCE, REGULATION
9 OR PROVISION ENACTED OR ADOPTED BY THE BOARD UNDER THE AUTHORITY GRANTED BY
10 THIS CHAPTER, THE BOARD, THE COUNTY ATTORNEY, THE INSPECTOR OR ANY ADJACENT
11 OR NEIGHBORING PROPERTY OWNER WHO IS SPECIALLY DAMAGED BY THE VIOLATION, IN
12 ADDITION TO THE OTHER REMEDIES PROVIDED BY LAW, MAY INSTITUTE INJUNCTION,
13 MANDAMUS, ABATEMENT OR ANY OTHER APPROPRIATE ACTION OR PROCEEDINGS TO PREVENT
14 OR ABATE OR REMOVE THE UNLAWFUL ERECTION, CONSTRUCTION, RECONSTRUCTION,
15 ALTERATION, MAINTENANCE OR USE.

16 11-816. Boards of adjustment; powers; appeals

17 A. THERE SHALL BE ONE OR MORE BOARDS OF ADJUSTMENT COMPOSED OF NOT
18 LESS THAN THREE NOR MORE THAN FIVE MEMBERS EACH, ONE OF WHICH SHALL BE
19 APPOINTED IN AND SHALL HAVE JURISDICTION IN EACH SUPERVISORIAL DISTRICT IN
20 WHICH THE ZONING ORDINANCE HAS BEEN APPLIED. THE MEMBERS OF EACH BOARD SHALL
21 BE APPOINTED FOR STAGGERED TERMS OF FOUR YEARS EACH. THEY SHALL BE RESIDENTS
22 AND TAXPAYERS OF THE DISTRICT FROM WHICH THEY ARE APPOINTED.

23 B. THE BOARD OF ADJUSTMENT MAY:

24 1. INTERPRET THE ZONING ORDINANCE IF THE MEANING OF ANY WORD, PHRASE
25 OR SECTION IS IN DOUBT, IF THERE IS DISPUTE BETWEEN THE APPELLANT AND
26 ENFORCING OFFICER OR IF THE LOCATION OF A DISTRICT BOUNDARY IS IN DOUBT.

27 2. ALLOW A VARIANCE FROM THE TERMS OF THE ORDINANCE IF, OWING TO
28 PECULIAR CONDITIONS, A STRICT INTERPRETATION WOULD WORK AN UNNECESSARY
29 HARDSHIP AND IF IN GRANTING THE VARIANCE THE GENERAL INTENT AND PURPOSES OF
30 THE ZONING ORDINANCE WILL BE PRESERVED.

31 C. APPEALS TO A BOARD OF ADJUSTMENT MAY BE TAKEN BY ANY PERSON WHO
32 FEELS THAT THERE IS ERROR OR DOUBT IN THE INTERPRETATION OF THE ORDINANCE OR
33 THAT DUE TO UNUSUAL CIRCUMSTANCES ATTACHING TO THE PERSON'S PROPERTY AN
34 UNNECESSARY HARDSHIP IS BEING INFLICTED ON THE PERSON. THE APPEAL SHALL
35 STATE WHETHER IT IS A PLEA FOR AN INTERPRETATION OR A VARIANCE AND THE
36 GROUNDS FOR THE APPEAL.

37 D. ANY PERSON AGGRIEVED IN ANY MANNER BY AN ACTION OF A BOARD OF
38 ADJUSTMENT MAY APPEAL WITHIN THIRTY DAYS TO THE SUPERIOR COURT, AND THE
39 MATTER SHALL BE HEARD DE NOVO.

40 11-817. Transfer of development rights; definitions

41 A. THE BOARD OF SUPERVISORS MAY ESTABLISH PROCEDURES, METHODS AND
42 STANDARDS FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN ITS JURISDICTION.
43 ANY PROPOSED TRANSFER OF ALL OR ANY PORTION OF THE DEVELOPMENT RIGHTS OF A
44 SENDING PROPERTY TO A RECEIVING PROPERTY IS SUBJECT TO THE WRITTEN APPROVAL
45 AND CONSENT OF THE PROPERTY OWNERS OF BOTH THE SENDING PROPERTY AND THE

1 RECEIVING PROPERTY. A COUNTY MAY NOT CONDITION A CHANGE OF ZONE ON A
2 PROPERTY OWNER'S CONSENT TO OR OTHER PARTICIPATION IN A PROPOSED TRANSFER OF
3 DEVELOPMENT RIGHTS, EXCEPT THAT A CHANGE OF ZONE MAY BE REQUIRED TO IMPLEMENT
4 A DEVELOPMENT AGREEMENT IF IT IS VOLUNTARILY ENTERED INTO BY A PROPERTY OWNER
5 OR OWNERS WITH A COUNTY FOR THE TRANSFER OF DEVELOPMENT RIGHTS CONCURRENTLY
6 WITH THE COUNTY'S APPROVAL OF THE CHANGE OF ZONE. BEFORE ANY TRANSFER OF
7 DEVELOPMENT RIGHTS, A COUNTY SHALL ADOPT AN ORDINANCE PROVIDING FOR:

8 1. THE ESTABLISHMENT, EXECUTION AND RECORDATION OF INSTRUMENTS TO
9 SEVER DEVELOPMENT RIGHTS TRANSFERRED FROM THE SENDING PROPERTY AND TO AFFIX
10 THE DEVELOPMENT RIGHTS TO THE RECEIVING PROPERTY. THE INSTRUMENTS SHALL BE
11 EXECUTED BY THE PROPERTY OWNERS OF THE SENDING AND RECEIVING PROPERTY AND ANY
12 LIENHOLDERS.

13 2. THE PRESERVATION OF THE CHARACTERISTICS OF THE SENDING PROPERTY
14 LENDING TO THE TRANSFER OF DEVELOPMENT RIGHTS AND ASSURANCE THAT ANY OF THE
15 PROHIBITIONS AGAINST PARTICULAR USES OR DEVELOPMENT OF THE SENDING PROPERTY
16 DETERMINED TO BE NECESSARY TO PRESERVE THE CHARACTERISTICS SHALL BIND THE
17 PROPERTY OWNER AND EVERY SUCCESSOR IN INTEREST TO THE PROPERTY.

18 3. A DELAY BEFORE TRANSFER OF DEVELOPMENT RIGHTS TO A RECEIVING
19 PROPERTY AFTER THE SEVERANCE OF TRANSFERABLE DEVELOPMENT RIGHTS FROM A
20 SENDING PROPERTY.

21 4. THE PURCHASE, SALE, EXCHANGE OR OTHER CONVEYANCE OF TRANSFERABLE
22 DEVELOPMENT RIGHTS BEFORE THE RIGHTS ARE AFFIXED TO A RECEIVING PROPERTY.

23 5. PROCEDURES FOR MONITORING THE SEVERANCE, OWNERSHIP AND TRANSFER OF
24 TRANSFERABLE DEVELOPMENT RIGHTS.

25 6. APPROPRIATE PUBLIC PARTICIPATION PROCEDURES FOR EACH TYPE OF
26 TRANSACTION.

27 7. USE OF DEVELOPMENT AGREEMENTS AS AN OPTION FOR IMPLEMENTATION.

28 B. THE RESULTING DENSITY OR INTENSITY OF LAND USE OF THE RECEIVING
29 PROPERTY SHALL CONFORM TO THE ADOPTED COMPREHENSIVE PLAN, AS AMENDED, IF
30 APPLICABLE. IF A PLAN AMENDMENT IS REQUIRED BEFORE THE TRANSFER, THE PLAN
31 AMENDMENT SHALL NOT BE CONSIDERED A MAJOR PLAN AMENDMENT.

32 C. A COUNTY'S AREA OF JURISDICTION INCLUDES LAND IN A HIGH NOISE OR
33 ACCIDENT POTENTIAL ZONE, IN ORDER TO FACILITATE DEVELOPMENT IN THE HIGH NOISE
34 OR ACCIDENT POTENTIAL ZONE THAT CONFORMS TO THE COMPATIBLE USES PRESCRIBED IN
35 SECTION 28-8481, SUBSECTION J, THE COUNTY MAY APPROVE THE TRANSFER OF
36 DEVELOPMENT RIGHTS AND ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH ANY CITY
37 OR TOWN OR OTHER COUNTY.

38 D. THE BOARD OF SUPERVISORS MAY AUTHORIZE THE TRANSFER OF DEVELOPMENT
39 RIGHTS FROM UNINCORPORATED AREAS OF A COUNTY TO A MUNICIPALITY PURSUANT TO AN
40 INTERGOVERNMENTAL AGREEMENT.

41 E. FOR THE PURPOSES OF THIS SECTION:

42 1. "ANCILLARY MILITARY FACILITY" HAS THE SAME MEANING PRESCRIBED IN
43 SECTION 28-8461.

44 2. "DEVELOPMENT RIGHTS" MEANS THE MAXIMUM DEVELOPMENT THAT WOULD BE
45 ALLOWED ON THE SENDING PROPERTY UNDER THE ADOPTED COMPREHENSIVE PLAN, THE

1 SPECIFIC PLAN, IF ANY, OR THE ZONING ORDINANCE, WHICHEVER PROVIDES GREATER
2 DENSITY OR INTENSITY OF USE OR, IF APPLICABLE, BOTH, IN EFFECT ON THE DATE
3 THE COUNTY ADOPTS AN ORDINANCE PURSUANT TO SUBSECTION A OF THIS SECTION,
4 RESPECTING THE PERMISSIBLE USE, AREA, BULK OR HEIGHT OF IMPROVEMENTS MADE TO
5 ONE OR MORE LOTS OR PARCELS. DEVELOPMENT RIGHTS MAY BE CALCULATED AND
6 ALLOCATED PURSUANT TO FACTORS INCLUDING DWELLING UNITS, AREA, FLOOR AREA,
7 FLOOR AREA RATIO, HEIGHT LIMITATIONS, TRAFFIC GENERATION OR ANY OTHER
8 CRITERIA THAT WILL QUANTIFY A VALUE FOR THE DEVELOPMENT RIGHTS IN A MANNER
9 THAT WILL CARRY OUT THE OBJECTIVES OF THIS SECTION.

10 3. "HIGH NOISE OR ACCIDENT POTENTIAL ZONE" HAS THE SAME MEANING
11 PRESCRIBED IN SECTION 28-8461.

12 4. "MILITARY AIRPORT" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 28-8461.

14 5. "RECEIVING PROPERTY" MEANS ONE OR MORE LOTS OR PARCELS WITHIN WHICH
15 DEVELOPMENT RIGHTS ARE INCREASED UNDER THE ADOPTED COMPREHENSIVE PLAN, THE
16 SPECIFIC PLAN, IF ANY, OR THE ZONING ORDINANCE, WHICHEVER PROVIDES GREATER
17 DENSITY OR INTENSITY OF USE OR, IF APPLICABLE, BOTH, IN EFFECT BEFORE A
18 TRANSFER OF DEVELOPMENT RIGHTS AND AN AMENDMENT TO THE ADOPTED COMPREHENSIVE
19 PLAN, SPECIFIC PLAN OR ZONING ORDINANCE, OR A REZONE OF THE PROPERTY,
20 WHICHEVER IS REQUIRED TO IMPLEMENT THE INCREASE IN DEVELOPMENT RIGHTS. THE
21 RECEIVING PROPERTY SHALL BE SUITABLE FOR DEVELOPMENT THAT INCLUDES THE
22 TRANSFERRED DEVELOPMENT RIGHTS CONSISTENT WITH THE ADOPTED COMPREHENSIVE
23 PLAN, AS AMENDED, IF APPLICABLE. RECEIVING PROPERTY DOES NOT INCLUDE LOTS OR
24 PARCELS THAT ARE PARTIALLY OR WHOLLY LOCATED WITHIN, OR THAT INCLUDE, A HIGH
25 NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR AN ANCILLARY
26 MILITARY FACILITY.

27 6. "SENDING PROPERTY" MEANS ONE OR MORE LOTS OR PARCELS THAT ARE
28 PARTIALLY OR WHOLLY LOCATED WITHIN, OR THAT INCLUDE, A HIGH NOISE OR ACCIDENT
29 POTENTIAL ZONE OF A MILITARY AIRPORT OR AN ANCILLARY MILITARY FACILITY, A
30 FLOODPLAIN, NATURAL HABITAT, GEOLOGIC FEATURES, RECREATION AREA OR PARKLAND,
31 OR LAND THAT HAS UNIQUE AESTHETIC, ARCHITECTURAL OR HISTORIC VALUE, THAT A
32 COUNTY DETERMINES IS APPROPRIATE AND NECESSARY TO RESTRICT AGAINST PARTICULAR
33 USES OR FUTURE DEVELOPMENT THAT WOULD IMPAIR OR PRECLUDE PRESERVATION OF THE
34 CHARACTERISTIC OR CHARACTERISTICS OF THE PROPERTY OR TO PROTECT THE PUBLIC
35 BECAUSE OF HEALTH OR SAFETY CONCERNS.

36 7. "TRANSFER OF DEVELOPMENT RIGHTS" MEANS THE PROCESS BY WHICH
37 DEVELOPMENT RIGHTS FROM ONE OR MORE SENDING PROPERTIES ARE AFFIXED TO ONE OR
38 MORE RECEIVING PROPERTIES.

39 11-818. Disclosure of filings: military electronics range:
40 definition

41 A. A COUNTY THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE
42 AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE
43 LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE
44 INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE COUNTY

1 TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS
2 RANGE:

3 1. REZONE THE PROPERTY.

4 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN
5 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY
6 OPERATED UTILITY, FOR THE PROPERTY.

7 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING
8 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,
9 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

10 B. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN SUBSECTION A OF THIS
11 SECTION DOES NOT REQUIRE A PUBLIC HEARING, THIS SUBSECTION SHALL NOT BE
12 CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE COUNTY ON WRITTEN
13 COMMENTS BY THE INSTALLATION. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL
14 COMMENTS ON THE PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN
15 WRITING AND RECEIVED BY THE COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING
16 ON THE PROPOSED LAND USE CHANGE. IF THE INSTALLATION CHOOSES NOT TO SUBMIT
17 OFFICIAL COMMENTS, AND IF THERE IS A HEARING, THE COUNTY SHALL NOTE AT THE
18 PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE INSTALLATION HAS NOT
19 INDICATED AN OBJECTION TO THE PROPOSED LAND USE CHANGE.

20 C. THE COUNTY SHALL PROVIDE NOTICE TO THE OFFICE OF THE INSTALLATION
21 COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND
22 THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE
23 PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE
24 INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE
25 PROCEDURES THE COUNTY USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND
26 DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

27 D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A COUNTY TO
28 DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY
29 OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE
30 MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

31 E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A COUNTY TO MEET THE
32 NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND DEPARTMENT HAS
33 NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

34 F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"
35 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,
36 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY
37 MISSION OF A MILITARY INSTALLATION.

38 ARTICLE 3. COUNTY SUBDIVISION REGULATION

39 11-821. Subdivision regulations; subdivision reservation for
40 public facilities and services; conditions;
41 procedures; time limitation

42 A. THE COUNTY BOARD OF SUPERVISORS SHALL REGULATE THE SUBDIVISION OF
43 ALL LANDS WITHIN ITS CORPORATE LIMITS, EXCEPT SUBDIVISIONS THAT ARE REGULATED
44 BY MUNICIPALITIES.

1 B. THE COMMISSION SHALL RECOMMEND TO THE BOARD AND THE BOARD SHALL
2 ADOPT GENERAL REGULATIONS OF UNIFORM APPLICATION GOVERNING PLATS AND
3 SUBDIVISIONS OF LAND WITHIN ITS AREA OF JURISDICTION. THE REGULATIONS
4 ADOPTED SHALL SECURE AND PROVIDE FOR THE PROPER ARRANGEMENT OF STREETS OR
5 OTHER HIGHWAYS IN RELATION TO EXISTING OR PLANNED STREETS, HIGHWAYS OR
6 BICYCLE FACILITIES OR TO THE OFFICIAL MAP FOR ADEQUATE AND CONVENIENT OPEN
7 SPACES FOR TRAFFIC, UTILITIES, DRAINAGE, ACCESS OF FIREFIGHTING APPARATUS,
8 RECREATION, LIGHT AND AIR. THE BOARD MAY ADOPT GENERAL REGULATIONS TO
9 PROVIDE FOR THE PROPER ARRANGEMENT OF HIKING AND EQUESTRIAN TRAILS IN
10 RELATION TO EXISTING OR PLANNED STREETS OR HIGHWAYS, AND IF ADOPTED, THE
11 HIKING AND EQUESTRIAN TRAILS SHALL CONFORM TO THE OFFICIAL MAP FOR ADEQUATE
12 AND CONVENIENT OPEN SPACES FOR TRAFFIC, UTILITIES, DRAINAGE, ACCESS OF
13 FIREFIGHTING APPARATUS, RECREATION, LIGHT AND AIR. THE GENERAL REGULATIONS
14 MAY PROVIDE FOR MODIFICATION BY THE COMMISSION IN PLANNED AREA DEVELOPMENT OR
15 SPECIFIC CASES WHERE UNUSUAL TOPOGRAPHICAL OR OTHER EXCEPTIONAL CONDITIONS
16 MAY REQUIRE SUCH ACTION. THE REGULATIONS SHALL INCLUDE PROVISIONS AS TO THE
17 EXTENT TO WHICH STREETS AND OTHER HIGHWAYS SHALL BE GRADED AND IMPROVED AND
18 TO WHICH WATER, SEWER OR OTHER UTILITY MAINS, PIPING OR OTHER FACILITIES
19 SHALL BE INSTALLED OR PROVIDED FOR ON THE PLAT AS A CONDITION PRECEDENT TO
20 THE APPROVAL OF THE FINAL PLAT.

21 C. BOARDS OF SUPERVISORS OF COUNTIES SHALL PREPARE SPECIFICATIONS AND
22 MAKE ORDERS, INSPECTIONS, EXAMINATIONS AND CERTIFICATES AS MAY BE NECESSARY
23 TO PROTECT AND COMPLETE THE PROVISIONS AND MAKE THEM EFFECTIVE. THE
24 REGULATIONS SHALL REQUIRE THE POSTING OF PERFORMANCE BONDS, ASSURANCES OR
25 SUCH OTHER SECURITY AS MAY BE APPROPRIATE AND NECESSARY TO ENSURE THE
26 INSTALLATION OF REQUIRED STREET, SEWER, ELECTRIC AND WATER UTILITIES,
27 DRAINAGE, FLOOD CONTROL AND IMPROVEMENTS MEETING ESTABLISHED MINIMUM
28 STANDARDS OF DESIGN AND CONSTRUCTION.

29 D. BEFORE ADOPTION OF REGULATIONS BY THE BOARD OR ANY AMENDMENT AS
30 PROVIDED IN THIS ARTICLE, THE COMMISSION SHALL HOLD A PUBLIC HEARING. THE
31 COMMISSION SHALL CERTIFY A COPY OF THE REGULATIONS TO THE COUNTY BOARD OF
32 SUPERVISORS, WHICH SHALL HOLD A PUBLIC HEARING AFTER NOTICE OF THE TIME AND
33 PLACE HAS BEEN GIVEN BY ONE PUBLICATION FIFTEEN DAYS BEFORE THE PUBLIC
34 HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY.

35 E. A BOARD OF SUPERVISORS MAY REQUIRE BY ORDINANCE THAT LAND AREAS
36 WITHIN A SUBDIVISION BE RESERVED FOR PARKS, RECREATIONAL FACILITIES, SCHOOL
37 SITES AND FIRE STATIONS SUBJECT TO THE FOLLOWING CONDITIONS:

38 1. THE REQUIREMENT MAY ONLY BE MADE ON PRELIMINARY PLATS FILED AT
39 LEAST THIRTY DAYS AFTER THE ADOPTION OF A COMPREHENSIVE PLAN OR AMENDMENT OF
40 THE PLAN AFFECTING THE LAND AREA TO BE RESERVED.

41 2. THE REQUIRED RESERVATIONS ARE IN ACCORDANCE WITH DEFINITE
42 PRINCIPLES AND STANDARDS ADOPTED BY THE BOARD OR COMMISSION.

43 3. THE LAND AREA RESERVED IS OF SUCH A SIZE AND SHAPE AS TO PERMIT THE
44 REMAINDER OF THE LAND AREA OF THE SUBDIVISION WITHIN WHICH THE RESERVATION IS
45 LOCATED TO DEVELOP IN AN ORDERLY AND EFFICIENT MANNER.

1 4. THE LAND AREA RESERVED IS IN SUCH MULTIPLES OF STREETS AND PARCELS
2 AS TO PERMIT AN EFFICIENT DIVISION OF THE RESERVED AREA IF IT IS NOT ACQUIRED
3 WITHIN THE PRESCRIBED PERIOD.

4 F. THE PUBLIC AGENCY FOR WHOSE BENEFIT AN AREA HAS BEEN RESERVED HAS
5 ONE YEAR AFTER RECORDING THE FINAL SUBDIVISION PLAT TO ENTER INTO AN
6 AGREEMENT TO ACQUIRE THE RESERVED LAND AREA. THE PURCHASE PRICE IS THE FAIR
7 MARKET VALUE OF THE LAND AT THE TIME OF THE FILING OF THE PRELIMINARY
8 SUBDIVISION PLAT PLUS THE TAXES AGAINST THE RESERVED AREA FROM THE DATE OF
9 THE RESERVATION AND ANY OTHER COSTS INCURRED BY THE SUBDIVIDER IN THE
10 MAINTENANCE OF THE RESERVED AREA, INCLUDING INTEREST COST INCURRED ON ANY
11 LOAN COVERING THE RESERVED AREA.

12 G. IF THE PUBLIC AGENCY FOR WHOSE BENEFIT AN AREA HAS BEEN RESERVED
13 DOES NOT EXERCISE THE RESERVATION AGREEMENT WITHIN THE ONE YEAR PERIOD OR AN
14 EXTENDED PERIOD MUTUALLY AGREED ON BY THE PUBLIC AGENCY AND THE SUBDIVIDER,
15 THE RESERVATION OF THE AREA TERMINATES.

16 11-822. Subdivision approval; platting regulations; violation;
17 classification; easement vesting

18 A. NO PLAT OF A SUBDIVISION OF LAND WITHIN THE AREA OF JURISDICTION OF
19 THE COUNTY SHALL BE ACCEPTED FOR RECORDING OR RECORDED UNTIL IT HAS BEEN
20 APPROVED BY THE BOARD. THE APPROVAL OF THE BOARD SHALL BE ENDORSED IN
21 WRITING ON THE PLAT AND SHALL ALSO INCLUDE SPECIFIC IDENTIFICATION AND
22 APPROVAL OF THE ASSURANCES, EXCEPT THOSE FOR HIKING AND EQUESTRIAN TRAILS
23 REQUIRED BY THIS SECTION. IF A COUNTY PLANNING AND ZONING COMMISSION EXISTS,
24 THE PLAT MAY BE REFERRED TO THE COMMISSION FOR ITS CONSIDERATION AND THE
25 BOARD MAY RECEIVE THE RECOMMENDATION OF THE COMMISSION. IF THE SUBDIVISION
26 IS COMPRISED OF SUBDIVIDED LAND, AS DEFINED IN SECTION 32-2101, AND IS WITHIN
27 AN ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE PLAT SHALL NOT
28 BE APPROVED UNLESS IT IS ACCOMPANIED BY A CERTIFICATE OF ASSURED WATER SUPPLY
29 ISSUED BY THE DIRECTOR OF WATER RESOURCES, OR UNLESS THE SUBDIVIDER HAS
30 OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A
31 CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER
32 SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576 OR IS
33 EXEMPT FROM SUCH A REQUIREMENT PURSUANT TO SECTION 45-576. THE BOARD SHALL
34 NOTE ON THE FACE OF THE PLAT THAT A CERTIFICATE OF ASSURED WATER SUPPLY HAS
35 BEEN SUBMITTED WITH THE PLAT OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT
36 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE
37 WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO
38 SECTION 45-576.

39 B. THE GROUND OF REFUSAL OR APPROVAL OF ANY PLAT SUBMITTED, INCLUDING
40 CITATION OF OR REFERENCE TO THE RULE OR REGULATION VIOLATED BY THE PLAT,
41 SHALL BE STATED ON THE RECORD OF THE BOARD.

42 C. APPROVAL OF A PLAT SHALL NOT BE DEEMED TO CONSTITUTE OR EFFECT AN
43 ACCEPTANCE BY THE COUNTY FOR DESIGNATION OF ANY STREET, HIGHWAY, BICYCLE
44 FACILITY OR OTHER WAY OR OPEN SPACE SHOWN ON THE PLAT INTO THE COUNTY
45 MAINTENANCE SYSTEM EXCEPT FOR HIKING AND EQUESTRIAN TRAILS THAT ARE

1 CONSTRUCTED AND MAINTAINED BY THE COUNTY. HOWEVER, AT THE TIME THE STREETS,
2 HIGHWAYS, BICYCLE FACILITIES OR OTHER WAYS ARE FULLY COMPLETED IN ACCORDANCE
3 WITH THE APPROVED PLAT AND WRITTEN SPECIFICATIONS MADE BY THE COUNTY BOARD,
4 THE COUNTY SHALL ACCEPT THE STREETS, HIGHWAYS, BICYCLE FACILITIES AND OTHER
5 WAYS INTO THE COUNTY MAINTENANCE SYSTEM WITHIN ONE YEAR OF COMPLETION.

6 D. ANY PERSON CAUSING A FINAL PLAT TO BE RECORDED WITHOUT FIRST
7 SUBMITTING THE PLAT AND OBTAINING APPROVAL OF THE BOARD IS GUILTY OF A CLASS
8 2 MISDEMEANOR. A COUNTY RECORDER SHALL NOT ACCEPT FOR RECORDING OR RECORD
9 ANY PLAT THAT HAS NOT BEEN APPROVED AS PROVIDED BY THIS ARTICLE.

10 E. ON RECORDING OF A PLAT, THE FEE OF THE STREETS, ALLEYS, AVENUES,
11 HIGHWAYS, EASEMENTS, PARKS AND OTHER PARCELS OF GROUND RESERVED TO THE USE OF
12 THE PUBLIC VESTS IN TRUST IN THE COUNTY FOR THE USES AND TO THE EXTENT
13 DEPICTED ON THE PLAT, INCLUDING INGRESS AND EGRESS EASEMENTS DEPICTED ON THE
14 PLAT. ON ANNEXATION BY ANY CITY OR TOWN THE FEE AUTOMATICALLY VESTS IN THE
15 CITY OR TOWN.

16 F. FOR ANY SUBDIVISION THAT CONSISTS OF LOTS, TRACTS OR PARCELS, EACH
17 OF WHICH IS OF A SIZE AS PRESCRIBED BY THE BOARD OF SUPERVISORS, THE BOARD
18 MAY WAIVE THE REQUIREMENT TO PREPARE, SUBMIT AND RECEIVE APPROVAL OF A
19 PRELIMINARY PLAT AS A CONDITION PRECEDENT TO SUBMITTING A FINAL PLAT AND MAY
20 WAIVE OR REDUCE INFRASTRUCTURE STANDARDS OR REQUIREMENTS EXCEPT FOR IMPROVED
21 DUST-CONTROLLED ACCESS AND MINIMUM DRAINAGE IMPROVEMENTS.

22 11-823. Water supply; adequacy; exemptions

23 A. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS
24 ADOPTED BY THE BOARD PURSUANT TO SECTION 11-821, SUBSECTION B, IF APPROVED BY
25 UNANIMOUS VOTE OF THE BOARD OF SUPERVISORS, MAY PROVIDE THAT, EXCEPT AS
26 PROVIDED IN SUBSECTION C AND SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, THE
27 BOARD SHALL NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED
28 LANDS, AS DEFINED IN SECTION 32-2101, LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT
29 AREA, AS DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING APPLIES:

30 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
31 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE
32 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

33 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
34 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
35 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
36 TO SECTION 45-108.

37 B. IF THE BOARD UNANIMOUSLY ADOPTS THE PROVISION AUTHORIZED BY
38 SUBSECTION A OF THIS SECTION:

39 1. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM
40 THE PROVISION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
41 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL
42 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE
43 FOLLOWING APPLY:

44 (a) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER
45 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE

1 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY
2 OF THE RESIDENTS OF THE SUBDIVISION.

3 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE
4 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED
5 IN SECTION 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR
6 DIVERSION.

7 (c) IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION
8 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN
9 TITLE 45, CHAPTER 2, ARTICLE 8.

10 (d) THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY
11 ADDITIONAL CONDITIONS IMPOSED BY THE COUNTY.

12 2. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE
13 PROVISION TO THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL
14 QUALITY AND THE STATE REAL ESTATE COMMISSIONER. THE NOTICE SHALL INCLUDE A
15 CERTIFIED COPY OF THE PROVISION AND ANY EXEMPTIONS ADOPTED PURSUANT TO
16 PARAGRAPH 1 OF THIS SUBSECTION. WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE
17 MONIES IN A WATER SUPPLY DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.

18 3. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER
19 THAT IS INCONSISTENT WITH SUBSECTION A OF THIS SECTION. IF THE BOARD AMENDS
20 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR
21 OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL
22 ESTATE COMMISSIONER. THE BOARD MAY RESCIND AN EXEMPTION ADOPTED PURSUANT TO
23 PARAGRAPH 1 OF THIS SUBSECTION. IF THE BOARD RESCINDS THE EXEMPTION, IT
24 SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER
25 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE
26 COMMISSIONER, AND THE BOARD SHALL NOT READOPT THE EXEMPTION FOR AT LEAST FIVE
27 YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

28 4. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION A,
29 PARAGRAPH 1 OR 2 OF THIS SECTION, THE BOARD SHALL NOTE ON THE FACE OF THE
30 PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION
31 HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT
32 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE
33 WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO
34 SECTION 45-108.

35 5. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION
36 AUTHORIZED BY PARAGRAPH 1 OF THIS SUBSECTION OR GRANTED BY THE DIRECTOR OF
37 WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR 45-108.03:

38 (a) THE BOARD SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO THE
39 DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

40 (b) THE BOARD SHALL INCLUDE ON THE FACE OF THE PLAT A STATEMENT THAT
41 THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER SUPPLY FOR THE
42 SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE EXEMPTION UNDER
43 WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE BOARD OR THE
44 DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS DETERMINED THAT THE
45 SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE DIRECTOR OF WATER

1 RESOURCES SUBSEQUENTLY INFORMS THE BOARD THAT THE SUBDIVISION IS BEING SERVED
2 BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY THE DIRECTOR AS HAVING AN
3 ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108, THE BOARD SHALL RECORD IN
4 THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

5 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO:

6 1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
7 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF
8 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION
9 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR THE DIRECTOR GRANTS AN
10 EXEMPTION PURSUANT TO SECTION 45-108.03.

11 2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE
12 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE
13 IN THE COUNTY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED SINCE IT RECEIVED
14 THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE PLAT
15 RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL
16 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY
17 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE COUNTY APPROVES A PLAT
18 PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED
19 THAT THERE IS AN INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO
20 SECTION 45-108, THE COUNTY SHALL NOTE THIS ON THE FACE OF THE PLAT.

21 D. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN
22 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE BOARD HAS NOT
23 ADOPTED A PROVISION PURSUANT TO SUBSECTION A OF THIS SECTION:

24 1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
25 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF
26 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE
27 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING
28 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO
29 SECTION 45-108, THE BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT
30 IS APPROVED.

31 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
32 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE
33 BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

34 ARTICLE 4. LAND DIVISIONS; APPEALS; MORATORIUMS

35 11-831. Review of land divisions; definitions

36 A. THE BOARD OF SUPERVISORS OF EACH COUNTY MAY ADOPT ORDINANCES AND
37 REGULATIONS PURSUANT TO THIS SECTION FOR STAFF REVIEW AND APPROVAL OF LAND
38 DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL INTERESTS, ANY OF
39 WHICH IS TEN ACRES OR SMALLER IN SIZE. THE COUNTY MAY NOT DENY APPROVAL OF
40 ANY LAND DIVISION THAT MEETS THE REQUIREMENTS OF THIS SECTION. IF REVIEW OF
41 THE REQUEST IS NOT COMPLETED WITHIN THIRTY DAYS AFTER RECEIVING THE REQUEST,
42 THE LAND DIVISION IS CONSIDERED TO BE APPROVED. AT ITS OPTION, THE BOARD OF
43 SUPERVISORS MAY SUBMIT A BALLOT QUESTION TO THE VOTERS OF THE COUNTY TO ALLOW
44 THE VOTERS TO DETERMINE THE APPLICATION OF SUBSECTIONS B AND C TO QUALIFYING
45 LAND DIVISIONS IN THAT COUNTY.

1 B. AN APPLICATION TO SPLIT A PARCEL OF LAND SHALL BE APPROVED IF:
2 1. THE LOTS, PARCELS OR FRACTIONAL INTERESTS EACH MEET THE MINIMUM
3 APPLICABLE COUNTY ZONING REQUIREMENTS OF THE APPLICABLE ZONING DESIGNATION.
4 2. THE APPLICANT PROVIDES A STANDARD PRELIMINARY TITLE REPORT OR OTHER
5 ACCEPTABLE DOCUMENT THAT DEMONSTRATES LEGAL ACCESS TO THE LOTS, PARCELS OR
6 FRACTIONAL INTERESTS.
7 3. THE APPLICANT PROVIDES A STATEMENT FROM A LICENSED SURVEYOR OR
8 ENGINEER, OR OTHER EVIDENCE ACCEPTABLE TO THE COUNTY, STATING WHETHER EACH
9 LOT, PARCEL OR FRACTIONAL INTEREST HAS PHYSICAL ACCESS THAT IS TRAVERSABLE BY
10 A TWO-WHEEL DRIVE PASSENGER MOTOR VEHICLE.
11 4. THE APPLICANT RESERVES THE NECESSARY AND APPROPRIATE UTILITY
12 EASEMENTS TO SERVE EACH LOT, PARCEL OR FRACTIONAL INTEREST CREATED BY THE
13 LAND DIVISION.
14 C. AN APPLICATION TO SPLIT A PARCEL OF LAND THAT DOES NOT COMPLY WITH
15 ONE OR MORE OF THE ITEMS LISTED IN SUBSECTION B SHALL STILL BE APPROVED IF
16 THE APPLICANT PROVIDES AN ACKNOWLEDGMENT THAT IS SIGNED BY THE APPLICANT AND
17 THAT CONFIRMS THAT NO BUILDING OR USE PERMIT WILL BE ISSUED BY THE COUNTY
18 UNTIL THE LOT, PARCEL OR FRACTIONAL INTEREST HAS MET THE REQUIREMENTS OF
19 SUBSECTION B. THE COUNTY MAY GRANT A VARIANCE FROM ONE OR MORE OF THE ITEMS
20 LISTED IN SUBSECTION B.
21 D. ANY APPROVAL OF A LAND DIVISION UNDER THIS SECTION MAY:
22 1. INCLUDE THE MINIMUM STATUTORY REQUIREMENTS FOR LEGAL AND PHYSICAL
23 ON-SITE ACCESS THAT MUST BE MET AS A CONDITION TO THE ISSUANCE OF A BUILDING
24 OR USE PERMIT FOR THE LOTS, PARCELS OR FRACTIONAL INTERESTS.
25 2. IDENTIFY TOPOGRAPHIC, HYDROLOGIC OR OTHER SITE CONSTRAINTS,
26 REQUIREMENTS OR LIMITATIONS THAT MUST BE ADDRESSED AS CONDITIONS TO THE
27 EVENTUAL ISSUANCE OF A BUILDING OR USE PERMIT. THESE CONSTRAINTS,
28 REQUIREMENTS OR LIMITATIONS MAY BE AS NOTED BY THE APPLICANT OR THROUGH
29 COUNTY STAFF REVIEW, BUT THERE SHALL BE NO REQUIREMENT FOR INDEPENDENT
30 STUDIES.
31 E. IF THE REQUIREMENTS OF SUBSECTIONS A THROUGH D DO NOT APPLY, A
32 COUNTY MAY ADOPT ORDINANCES AND REGULATIONS PURSUANT TO THIS CHAPTER FOR
33 STAFF REVIEW OF LAND DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL
34 INTERESTS BUT ONLY TO DETERMINE COMPLIANCE WITH MINIMUM APPLICABLE COUNTY
35 ZONING REQUIREMENTS AND LEGAL ACCESS AND MAY GRANT WAIVERS FROM THE COUNTY
36 ZONING AND LEGAL ACCESS REQUIREMENTS. THE COUNTY MAY NOT DENY APPROVAL OF
37 ANY LAND DIVISION THAT MEETS THE REQUIREMENTS OF THIS SECTION OR WHERE THE
38 DEFICIENCIES ARE NOTICED IN THE DEED. A COUNTY MAY NOT REQUIRE A PUBLIC
39 HEARING ON A REQUEST TO DIVIDE FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL
40 INTERESTS. IF REVIEW OF THE REQUEST IS NOT COMPLETED WITHIN THIRTY DAYS FROM
41 RECEIPT OF THE REQUEST, THE LAND DIVISION SHALL BE DEEMED APPROVED. IF NO
42 LEGAL ACCESS IS AVAILABLE, THE LEGAL ACCESS DOES NOT ALLOW ACCESS BY
43 EMERGENCY VEHICLES OR THE COUNTY ZONING REQUIREMENTS ARE NOT MET, THE ACCESS
44 OR ZONING DEFICIENCIES SHALL BE NOTICED IN THE DEED. IF A COUNTY BY
45 ORDINANCE REQUIRES A LEGAL ACCESS OF MORE THAN TWENTY-FOUR FEET ROADWAY

1 WIDTH, THE COUNTY IS RESPONSIBLE FOR THE IMPROVEMENT AND MAINTENANCE OF THE
2 IMPROVEMENT. IF THE LEGAL ACCESS DOES NOT ALLOW ACCESS TO THE LOTS, PARCELS
3 OR FRACTIONAL INTERESTS BY EMERGENCY VEHICLES, NEITHER THE COUNTY NOR ITS
4 AGENTS OR EMPLOYEES ARE LIABLE FOR DAMAGES RESULTING FROM THE FAILURE OF
5 EMERGENCY VEHICLES TO REACH THE LOT, PARCEL OR FRACTIONAL INTEREST.

6 F. IT IS UNLAWFUL FOR A PERSON OR GROUP OF PERSONS ACTING IN CONCERT
7 TO ATTEMPT TO AVOID THIS SECTION OR THE SUBDIVISION LAWS OF THIS STATE BY
8 ACTING IN CONCERT TO DIVIDE A PARCEL OF LAND INTO SIX OR MORE LOTS OR SELL OR
9 LEASE SIX OR MORE LOTS BY USING A SERIES OF OWNERS OR CONVEYANCES. ANY
10 COUNTY WHERE THE DIVISION OCCURRED OR THE STATE REAL ESTATE DEPARTMENT
11 PURSUANT TO TITLE 32, CHAPTER 20 MAY ENFORCE THIS PROHIBITION.

12 G. FOR THE PURPOSES OF THIS SECTION:

13 1. "LEGAL ACCESS" MEANS A PUBLIC RIGHT OF VEHICULAR INGRESS AND EGRESS
14 BETWEEN THE LOTS, PARCELS OR FRACTIONAL INTERESTS BEING CREATED.

15 2. "MINIMUM APPLICABLE COUNTY ZONING REQUIREMENTS" MEANS THE MINIMUM
16 ACREAGE AND DIMENSIONS OF THE RESULTING LOT, PARCEL OR FRACTIONAL INTEREST AS
17 REQUIRED BY THE COUNTY'S ZONING ORDINANCE.

18 3. "UTILITY EASEMENT" MEANS AN EASEMENT OF EIGHT FEET IN WIDTH
19 DEDICATED TO THE GENERAL PUBLIC TO INSTALL, MAINTAIN AND ACCESS SEWER,
20 ELECTRIC, GAS AND WATER UTILITIES.

21 11-832. Appeals of county actions; dedication or exaction;
22 excessive reduction in property value; burden of
23 proof; attorney fees; compliance with court decisions

24 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A PROPERTY
25 OWNER MAY APPEAL THE FOLLOWING ACTIONS RELATING TO THE OWNER'S PROPERTY BY A
26 COUNTY, OR AN ADMINISTRATIVE AGENCY OR OFFICIAL OF A COUNTY, IN THE MANNER
27 PRESCRIBED BY THIS SECTION:

28 1. THE REQUIREMENT BY A COUNTY OF A DEDICATION OR EXACTION AS A
29 CONDITION OF GRANTING APPROVAL FOR THE USE, IMPROVEMENT OR DEVELOPMENT OF
30 REAL PROPERTY. THIS SECTION DOES NOT APPLY TO A DEDICATION OR EXACTION THAT
31 IS REQUIRED IN A LEGISLATIVE ACT OF THE BOARD OF SUPERVISORS AND THAT DOES
32 NOT GIVE DISCRETION TO AN ADMINISTRATIVE AGENCY OR OFFICIAL TO DETERMINE THE
33 NATURE OR EXTENT OF THE DEDICATION OR EXACTION.

34 2. THE ADOPTION OR AMENDMENT OF A ZONING REGULATION BY A COUNTY THAT
35 CREATES A TAKING IN VIOLATION OF SUBSECTION I.

36 B. THE COUNTY SHALL NOTIFY THE PROPERTY OWNER THAT THE PROPERTY OWNER
37 HAS THE RIGHT TO APPEAL THE COUNTY'S ACTION PURSUANT TO THIS SECTION AND
38 SHALL PROVIDE A DESCRIPTION OF THE APPEAL PROCEDURE. THE COUNTY SHALL NOT
39 REQUEST THE PROPERTY OWNER TO WAIVE THE RIGHT OF APPEAL OR TRIAL DE NOVO AT
40 ANY TIME DURING THE CONSIDERATION OF THE PROPERTY OWNER'S REQUEST.

41 C. THE APPEAL SHALL BE IN WRITING AND FILED WITH OR MAILED TO A
42 HEARING OFFICER DESIGNATED BY THE BOARD OF SUPERVISORS WITHIN THIRTY DAYS
43 AFTER THE FINAL ACTION IS TAKEN. THE COUNTY SHALL SUBMIT A TAKINGS IMPACT
44 REPORT TO THE HEARING OFFICER. A FEE SHALL NOT BE CHARGED FOR FILING THE
45 APPEAL.

1 D. AFTER RECEIPT OF AN APPEAL, THE HEARING OFFICER SHALL SCHEDULE A
2 TIME FOR THE APPEAL TO BE HEARD NOT LATER THAN THIRTY DAYS AFTER RECEIPT.
3 THE PROPERTY OWNER SHALL BE GIVEN AT LEAST TEN DAYS' NOTICE OF THE TIME WHEN
4 THE APPEAL WILL BE HEARD UNLESS THE PROPERTY OWNER AGREES TO A SHORTER TIME
5 PERIOD.

6 E. IN ALL PROCEEDINGS UNDER THIS SECTION THE COUNTY HAS THE BURDEN TO
7 ESTABLISH THAT THERE IS AN ESSENTIAL NEXUS BETWEEN THE DEDICATION OR EXACTION
8 AND A LEGITIMATE GOVERNMENTAL INTEREST AND THAT THE PROPOSED DEDICATION,
9 EXACTION OR ZONING REGULATION IS ROUGHLY PROPORTIONAL TO THE IMPACT OF THE
10 PROPOSED USE, IMPROVEMENT OR DEVELOPMENT OR, IN THE CASE OF A ZONING
11 REGULATION, THAT THE ZONING REGULATION DOES NOT CREATE A TAKING OF PROPERTY
12 IN VIOLATION OF SUBSECTION I. IF MORE THAN A SINGLE PARCEL IS INVOLVED, THIS
13 REQUIREMENT APPLIES TO THE ENTIRE PROPERTY.

14 F. THE HEARING OFFICER SHALL DECIDE THE APPEAL WITHIN FIVE WORKING
15 DAYS AFTER THE APPEAL IS HEARD. IF THE COUNTY DOES NOT MEET ITS BURDEN UNDER
16 SUBSECTION E, THE HEARING OFFICER SHALL:

17 1. MODIFY OR DELETE THE REQUIREMENT OF THE DEDICATION OR EXACTION
18 APPEALED UNDER SUBSECTION A, PARAGRAPH 1.

19 2. IN THE CASE OF A ZONING REGULATION APPEALED UNDER SUBSECTION A,
20 PARAGRAPH 2, THE HEARING OFFICER SHALL TRANSMIT A RECOMMENDATION TO THE BOARD
21 OF SUPERVISORS.

22 G. IF THE HEARING OFFICER MODIFIES OR AFFIRMS THE REQUIREMENT OF THE
23 DEDICATION, EXACTION OR ZONING REGULATION, A PROPERTY OWNER AGGRIEVED BY A
24 DECISION OF THE HEARING OFFICER, AT ANY TIME WITHIN THIRTY DAYS AFTER THE
25 HEARING OFFICER HAS RENDERED A DECISION, MAY FILE A COMPLAINT FOR A TRIAL DE
26 NOVO IN THE SUPERIOR COURT ON THE FACTS AND THE LAW REGARDING THE ISSUES OF
27 THE CONDITION OR REQUIREMENT OF THE DEDICATION, EXACTION OR ZONING
28 REGULATION. PURSUANT TO THE STANDARDS FOR GRANTING PRELIMINARY INJUNCTIONS,
29 THE COURT MAY EXERCISE ANY LEGAL OR EQUITABLE INTERIM REMEDIES THAT WILL
30 PERMIT THE PROPERTY OWNER TO PROCEED WITH THE USE, ENJOYMENT AND DEVELOPMENT
31 OF THE REAL PROPERTY BUT THAT WILL NOT RENDER MOOT ANY DECISION UPHOLDING THE
32 DEDICATION, EXACTION OR ZONING REGULATION.

33 H. ALL MATTERS PRESENTED TO THE SUPERIOR COURT PURSUANT TO THIS
34 SECTION HAVE PREFERENCE ON THE COURT CALENDAR ON THE SAME BASIS AS
35 CONDEMNATION MATTERS, AND THE COURT MAY AWARD REASONABLE ATTORNEY FEES
36 INCURRED IN THE APPEAL AND TRIAL PURSUANT TO THIS SECTION TO THE PREVAILING
37 PARTY. THE COURT MAY FURTHER AWARD DAMAGES THAT ARE DEEMED APPROPRIATE TO
38 COMPENSATE THE PROPERTY OWNER FOR DIRECT AND ACTUAL DELAY DAMAGES ON A
39 FINDING THAT THE COUNTY ACTED IN BAD FAITH.

40 I. A COUNTY OR AN AGENCY OR INSTRUMENTALITY OF A COUNTY SHALL COMPLY
41 WITH THE UNITED STATES SUPREME COURT CASES OF DOLAN V. CITY OF TIGARD, 512
42 U.S. 374 (1994), NOLLAN V. CALIFORNIA COASTAL COMMISSION, 483 U.S. 825
43 (1987), LUCAS V. SOUTH CAROLINA COASTAL COUNCIL, 505 U.S. 1003 (1992), FIRST
44 ENGLISH EVANGELICAL LUTHERAN CHURCH V. COUNTY OF LOS ANGELES, 482 U.S. 304
45 (1987), PALAZZOLO V. RHODE ISLAND, 533 U.S. 606 (2001), TAHOE-SIERRA

1 PRESERVATION COUNCIL, INC. V. TAHOE REGIONAL PLANNING AGENCY, 535 U.S. 320
2 (2002) AND ARIZONA AND FEDERAL APPELLATE COURT DECISIONS THAT ARE BINDING ON
3 ARIZONA COUNTIES INTERPRETING OR APPLYING THOSE CASES.

4 11-833. Standards for enactment of moratorium; land
5 development; limitations; definitions

6 A. A COUNTY SHALL NOT ADOPT A MORATORIUM ON CONSTRUCTION OR LAND
7 DEVELOPMENT UNLESS IT FIRST:

8 1. PROVIDES NOTICE TO THE PUBLIC PUBLISHED ONCE IN A NEWSPAPER OF
9 GENERAL CIRCULATION IN THE COMMUNITY AT LEAST THIRTY DAYS BEFORE A FINAL
10 PUBLIC HEARING TO BE HELD TO CONSIDER THE ADOPTION OF THE MORATORIUM.

11 2. MAKES WRITTEN FINDINGS JUSTIFYING THE NEED FOR THE MORATORIUM IN
12 THE MANNER PROVIDED FOR IN THIS SECTION.

13 3. HOLDS A PUBLIC HEARING ON THE ADOPTION OF THE MORATORIUM AND THE
14 FINDINGS THAT SUPPORT THE MORATORIUM.

15 B. FOR URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION, A
16 MORATORIUM MAY BE JUSTIFIED BY DEMONSTRATION OF A NEED TO PREVENT A SHORTAGE
17 OF ESSENTIAL PUBLIC FACILITIES THAT WOULD OTHERWISE OCCUR DURING THE
18 EFFECTIVE PERIOD OF THE MORATORIUM. THIS DEMONSTRATION SHALL BE BASED ON
19 REASONABLY AVAILABLE INFORMATION AND SHALL INCLUDE AT LEAST THE FOLLOWING
20 FINDINGS:

21 1. A SHOWING OF THE EXTENT OF NEED BEYOND THE ESTIMATED CAPACITY OF
22 EXISTING ESSENTIAL PUBLIC FACILITIES EXPECTED TO RESULT FROM NEW LAND
23 DEVELOPMENT, INCLUDING IDENTIFICATION OF ANY ESSENTIAL PUBLIC FACILITIES
24 CURRENTLY OPERATING BEYOND CAPACITY AND THE PORTION OF THIS CAPACITY ALREADY
25 COMMITTED TO DEVELOPMENT, OR IN THE CASE OF WATER RESOURCES, A SHOWING THAT,
26 IN AN ACTIVE MANAGEMENT AREA AS DEFINED IN SECTION 45-402, AN ASSURED WATER
27 SUPPLY CANNOT BE PROVIDED, OR OUTSIDE AN ACTIVE MANAGEMENT AREA, A SUFFICIENT
28 WATER SUPPLY CANNOT BE PROVIDED, TO THE NEW LAND DEVELOPMENT, INCLUDING
29 IDENTIFICATION OF CURRENT WATER RESOURCES AND THE PORTION ALREADY COMMITTED
30 TO DEVELOPMENT.

31 2. THAT THE MORATORIUM IS REASONABLY LIMITED TO THOSE AREAS OF THE
32 COUNTY WHERE A SHORTAGE OF ESSENTIAL PUBLIC FACILITIES WOULD OTHERWISE OCCUR
33 AND ON PROPERTY THAT HAS NOT RECEIVED DEVELOPMENT APPROVALS BASED ON THE
34 SUFFICIENCY OF EXISTING ESSENTIAL PUBLIC FACILITIES.

35 3. THAT THE HOUSING AND ECONOMIC DEVELOPMENT NEEDS OF THE AREA
36 AFFECTED HAVE BEEN ACCOMMODATED AS MUCH AS POSSIBLE IN ANY PROGRAM FOR
37 ALLOCATING ANY REMAINING ESSENTIAL PUBLIC FACILITY CAPACITY.

38 C. A MORATORIUM NOT BASED ON A SHORTAGE OF ESSENTIAL PUBLIC FACILITIES
39 UNDER SUBSECTION B OF THIS SECTION MAY BE JUSTIFIED ONLY BY A DEMONSTRATION
40 OF COMPELLING NEED FOR OTHER PUBLIC FACILITIES, INCLUDING POLICE AND FIRE
41 FACILITIES. THIS DEMONSTRATION SHALL BE BASED ON REASONABLY AVAILABLE
42 INFORMATION AND SHALL INCLUDE AT LEAST THE FOLLOWING FINDINGS:

43 1. FOR URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION:

1 (a) THAT APPLICATION OF EXISTING DEVELOPMENT ORDINANCES OR REGULATIONS
2 AND OTHER APPLICABLE LAW IS INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM
3 FROM DEVELOPMENT IN AFFECTED GEOGRAPHICAL AREAS.

4 (b) THAT THE MORATORIUM IS SUFFICIENTLY LIMITED TO ENSURE THAT A
5 NEEDED SUPPLY OF AFFECTED HOUSING TYPES AND THE SUPPLY OF COMMERCIAL AND
6 INDUSTRIAL FACILITIES WITHIN OR IN PROXIMITY TO THE COUNTY ARE NOT
7 UNREASONABLY RESTRICTED BY THE ADOPTION OF THE MORATORIUM.

8 (c) THE REASONS THAT ALTERNATIVE METHODS OF ACHIEVING THE OBJECTIVES
9 OF THE MORATORIUM ARE UNSATISFACTORY.

10 (d) THAT THE COUNTY HAS DETERMINED THAT THE PUBLIC HARM THAT WOULD BE
11 CAUSED BY FAILURE TO IMPOSE A MORATORIUM OUTWEIGHS THE ADVERSE EFFECTS ON
12 OTHER AFFECTED LOCAL GOVERNMENTS, INCLUDING SHIFTS IN DEMAND FOR HOUSING OR
13 ECONOMIC DEVELOPMENT, PUBLIC FACILITIES AND SERVICES AND BUILDABLE LANDS AND
14 THE OVERALL IMPACT OF THE MORATORIUM ON POPULATION DISTRIBUTION.

15 (e) THAT THE CITY OR TOWN PROPOSING THE MORATORIUM HAS DEVELOPED A
16 WORK PLAN AND TIME SCHEDULE FOR ACHIEVING THE OBJECTIVES OF THE MORATORIUM.

17 2. FOR RURAL LAND:

18 (a) THAT APPLICATION OF EXISTING DEVELOPMENT ORDINANCES OR REGULATIONS
19 AND OTHER APPLICABLE LAW IS INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM
20 FROM DEVELOPMENT IN AFFECTED GEOGRAPHICAL AREAS.

21 (b) THE REASONS THAT ALTERNATIVE METHODS OF ACHIEVING THE OBJECTIVES
22 OF THE MORATORIUM ARE UNSATISFACTORY.

23 (c) THAT THE MORATORIUM IS SUFFICIENTLY LIMITED TO ENSURE THAT LOTS OR
24 PARCELS OUTSIDE THE AFFECTED GEOGRAPHICAL AREAS ARE NOT UNREASONABLY
25 RESTRICTED BY THE ADOPTION OF THE MORATORIUM.

26 (d) THAT THE COUNTY PROPOSING THE MORATORIUM HAS DEVELOPED A WORK PLAN
27 AND TIME SCHEDULE FOR ACHIEVING THE OBJECTIVES OF THE MORATORIUM.

28 D. ANY MORATORIUM ADOPTED PURSUANT TO THIS SECTION DOES NOT AFFECT ANY
29 EXPRESS PROVISION IN A DEVELOPMENT AGREEMENT ENTERED INTO PURSUANT TO SECTION
30 9-500.05 OR AS DEFINED IN SECTION 11-1101 GOVERNING THE RATE, TIMING AND
31 SEQUENCING OF DEVELOPMENT, NOR DOES IT AFFECT RIGHTS ACQUIRED PURSUANT TO A
32 PROTECTED DEVELOPMENT RIGHT GRANTED ACCORDING TO CHAPTER 9 OF THIS TITLE OR
33 TITLE 9, CHAPTER 11. ANY MORATORIUM ADOPTED PURSUANT TO THIS SECTION SHALL
34 PROVIDE A PROCEDURE PURSUANT TO WHICH AN INDIVIDUAL LANDOWNER MAY APPLY FOR A
35 WAIVER OF THE MORATORIUM'S APPLICABILITY TO ITS PROPERTY BY CLAIMING RIGHTS
36 OBTAINED PURSUANT TO A DEVELOPMENT AGREEMENT, A PROTECTED DEVELOPMENT RIGHT
37 OR ANY VESTED RIGHT OR BY PROVIDING THE PUBLIC FACILITIES THAT ARE THE
38 SUBJECT OF THE MORATORIUM AT THE LANDOWNER'S COST.

39 E. A MORATORIUM ADOPTED UNDER SUBSECTION C, PARAGRAPH 1 OF THIS
40 SECTION SHALL NOT REMAIN IN EFFECT FOR MORE THAN ONE HUNDRED TWENTY DAYS, BUT
41 SUCH A MORATORIUM MAY BE EXTENDED FOR ADDITIONAL PERIODS OF TIME OF UP TO ONE
42 HUNDRED TWENTY DAYS IF THE COUNTY ADOPTING THE MORATORIUM HOLDS A PUBLIC
43 HEARING ON THE PROPOSED EXTENSION AND ADOPTS WRITTEN FINDINGS THAT:

44 1. VERIFY THE PROBLEM REQUIRING THE NEED FOR THE MORATORIUM TO BE
45 EXTENDED.

1 2. DEMONSTRATE THAT REASONABLE PROGRESS IS BEING MADE TO ALLEVIATE THE
2 PROBLEM RESULTING IN THE MORATORIUM.

3 3. SET A SPECIFIC DURATION FOR THE RENEWAL OF THE MORATORIUM.

4 F. A COUNTY CONSIDERING AN EXTENSION OF A MORATORIUM SHALL PROVIDE
5 NOTICE TO THE GENERAL PUBLIC PUBLISHED ONCE IN A NEWSPAPER OF GENERAL
6 CIRCULATION IN THE COMMUNITY AT LEAST THIRTY DAYS BEFORE A FINAL HEARING IS
7 HELD TO CONSIDER AN EXTENSION OF A MORATORIUM.

8 G. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM COMPLYING WITH
9 ANY STATE OR FEDERAL LAW, REGULATION OR ORDER ISSUED IN WRITING BY A LEGALLY
10 AUTHORIZED GOVERNMENTAL ENTITY.

11 H. A LANDOWNER AGGRIEVED BY A COUNTY'S ADOPTION OF A MORATORIUM
12 PURSUANT TO THIS SECTION, AT ANY TIME WITHIN THIRTY DAYS AFTER THE MORATORIUM
13 HAS BEEN ADOPTED, MAY FILE A COMPLAINT FOR A TRIAL DE NOVO IN THE SUPERIOR
14 COURT ON THE FACTS AND THE LAW REGARDING THE MORATORIUM. ALL MATTERS
15 PRESENTED TO THE SUPERIOR COURT PURSUANT TO THIS SECTION HAVE PREFERENCE ON
16 THE COURT CALENDAR ON THE SAME BASIS AS CONDEMNATION MATTERS. THE COURT MAY
17 AWARD REASONABLE ATTORNEY FEES INCURRED IN THE APPEAL AND TRIAL PURSUANT TO
18 THIS SECTION TO THE PREVAILING PARTY.

19 I. FOR THE PURPOSES OF THIS SECTION:

20 1. "COMPELLING NEED" MEANS A CLEAR AND IMMINENT DANGER TO THE HEALTH
21 AND SAFETY OF THE PUBLIC.

22 2. "ESSENTIAL PUBLIC FACILITIES" MEANS WATER, SEWER AND STREET
23 IMPROVEMENTS AND WATER RESOURCES TO THE EXTENT THAT THESE IMPROVEMENTS AND
24 WATER RESOURCES ARE PROVIDED BY THE COUNTY OR PRIVATE UTILITY.

25 3. "MORATORIUM ON CONSTRUCTION OR LAND DEVELOPMENT" MEANS ENGAGING IN
26 A PATTERN OR PRACTICE OF DELAYING OR STOPPING ISSUANCE OF PERMITS,
27 AUTHORIZATIONS OR APPROVALS NECESSARY FOR THE SUBDIVISION AND PARTITIONING
28 OF, OR CONSTRUCTION ON, ANY LAND. IT DOES NOT INCLUDE DENIAL OR DELAY OF
29 PERMITS OR AUTHORIZATIONS BECAUSE THEY ARE INCONSISTENT WITH APPLICABLE
30 STATUTES, RULES, ZONING OR OTHER ORDINANCES.

31 4. "RURAL LAND" MEANS ALL PROPERTY IN THE UNINCORPORATED AREA OF A
32 COUNTY OR IN THE INCORPORATED AREA OF THE CITY OR TOWN WITH A POPULATION OF
33 TWO THOUSAND NINE HUNDRED OR LESS PERSONS.

34 5. "URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION" MEANS ALL
35 PROPERTY IN THE INCORPORATED AREA OF A CITY OR TOWN WITH A POPULATION OF MORE
36 THAN TWO THOUSAND NINE HUNDRED PERSONS.

37 6. "VESTED RIGHT" MEANS A RIGHT TO DEVELOP PROPERTY ESTABLISHED BY THE
38 EXPENDITURE OF SUBSTANTIAL SUMS OF MONEY PURSUANT TO A PERMIT OR APPROVAL
39 GRANTED BY THE CITY, TOWN OR COUNTY.

40 Sec. 8. Section 11-866, Arizona Revised Statutes, is amended to read:
41 11-866. Penalties

42 A penalty clause contained in a code adopted by reference shall not be
43 adopted by reference but shall be set forth in full in the adopting
44 ordinance. The penalty provisions of section ~~11-808~~ 11-815 may be applied by
45 the county in enforcing ~~the provisions of~~ this article.

1 Sec. 9. Section 11-1101, Arizona Revised Statutes, is amended to read:
2 11-1101. Development agreements
3 A. A county, by resolution or ordinance, may enter into development
4 agreements relating to property located outside the incorporated area of a
5 city or town.
6 B. The development agreement shall be between the county and a
7 landowner or any other person having an interest in real property and may
8 specify or otherwise relate to any of the following:
9 1. The duration of the agreement.
10 2. The permitted uses of property subject to the agreement.
11 3. The density and intensity of uses and the maximum height and size
12 of proposed buildings within the property.
13 4. Provisions for reservation or dedication of land for public
14 purposes and provisions to protect environmentally sensitive lands.
15 5. Provisions for preservation and restoration of historic structures.
16 6. The phasing or time of construction or development on the property.
17 7. Conditions, terms, restrictions, financing and requirements for
18 public infrastructure and subsequent reimbursements over time.
19 8. Conditions, terms, restrictions and requirements relating to the
20 county's intent to form a special taxing district pursuant to title 48.
21 9. Conditions of sewer services.
22 10. Any other matters relating to the development of the property.
23 C. A development agreement shall be consistent with the county
24 comprehensive plan adopted pursuant to chapter 6, article 2- 1 of this title
25 and applies to the property on the date the development agreement is
26 executed.
27 D. A development agreement may be amended, or cancelled in whole or in
28 part, by mutual consent of the parties to the development agreement or by
29 their successors in interest or assigns.
30 E. Within ten days after a development agreement is executed, the
31 county shall record a copy of the agreement with the county recorder, and the
32 recordation constitutes notice of the development agreement to all persons.
33 The burdens of the development agreement are binding on, and the benefits of
34 the development agreement inure to, the parties to the agreement and to all
35 of their successors in interest and assigns.
36 F. Section 32-2181, subsection I does not apply to development
37 agreements under this section.
38 G. Notwithstanding any other law, a county may provide by resolution
39 or ordinance for public safety purposes, and with the written consent of an
40 owner of property that has entered into a development agreement pursuant to
41 this section, for the application and enforcement of speed limits, vehicle
42 weight restrictions or other safety measures on a private road that is
43 located in any development outside the corporate boundaries of a city or town
44 and that is open to and used by the public. The county may require payment

1 from the property owner of the actual cost of signs for speed limits or other
2 restrictions applicable on the private road before their installation.

3 Sec. 10. Section 13-1422, Arizona Revised Statutes, is amended to
4 read:

5 13-1422. Adult oriented businesses; location; hours of
6 operation; injunction; classification; definitions

7 A. An adult oriented business shall not be located within one-fourth
8 mile of a child care facility, a private, public or charter school, a public
9 playground, a public recreational facility, a residence or a place of
10 worship. For the purposes of this subsection, measurements shall be made in
11 a straight line in all directions, without regard to intervening structures
12 or objects, from the nearest point on the property line of a parcel
13 containing an adult oriented business to the nearest point on the property
14 line of a parcel containing a child care facility, a private, public or
15 charter school, a public playground, a public recreational facility, a
16 residence or a place of worship. An adult oriented business lawfully
17 operating in conformity with this section does not violate this section if a
18 child care facility, a private, public or charter school, a public
19 playground, a public recreational facility, a residence or a place of worship
20 subsequently locates within one-fourth mile of the adult oriented business.

21 B. An adult arcade, adult bookstore or video store, adult cabaret,
22 adult motion picture theater, adult theater, escort agency or nude model
23 studio shall not remain open at any time between the hours of 1:00 a.m. and
24 8:00 a.m. on Monday through Saturday and between the hours of 1:00 a.m. and
25 12:00 noon on Sunday.

26 C. Subsection A of this section does not prohibit counties or
27 municipalities from enacting and enforcing ordinances that regulate the
28 location of adult oriented businesses.

29 D. Subsection B of this section does not prohibit counties or
30 municipalities from enacting and enforcing ordinances that regulate an adult
31 arcade, adult bookstore or video store, adult cabaret, adult motion picture
32 theater, adult theater, escort agency or nude model studio in a manner that
33 is at least as restrictive as subsection B of this section.

34 E. If there is reason to believe that a violation of subsection A of
35 this section is being committed in any county or city, the county attorney of
36 the county shall, or a citizen of this state who resides in the county or
37 city in the citizen's own name may, maintain an action to abate and prevent
38 the violation and to enjoin perpetually any person who is committing the
39 violation and the owner, lessee or agent of the building or place in or on
40 which the violation is occurring from directly or indirectly committing or
41 permitting the violation.

42 F. A violation of subsection A or B of this section is a class 1
43 misdemeanor. Each day of violation constitutes a separate offense.

- 1 G. For the purposes of this section:
- 2 1. "Adult arcade" has the same meaning prescribed in section ~~11-821~~
- 3 ~~11-811~~.
- 4 2. "Adult bookstore or video store" has the same meaning prescribed in
- 5 section ~~11-821~~ ~~11-811~~.
- 6 3. "Adult cabaret" excludes any establishment licensed under title 4
- 7 and includes any nightclub, bar, restaurant or other similar commercial
- 8 establishment that regularly features:
- 9 (a) Persons who appear in a state of nudity or who are seminude.
- 10 (b) Live performances that are characterized by the exposure of
- 11 specific anatomical areas or specific sexual activities.
- 12 (c) Films, motion pictures, videocassettes, slides or other
- 13 photographic reproductions that are characterized by the depiction or
- 14 description of specific sexual activities or specific anatomical areas.
- 15 4. "Adult motion picture theater" has the same meaning prescribed in
- 16 section ~~11-821~~ ~~11-811~~.
- 17 5. "Adult oriented business" has the same meaning prescribed in
- 18 section ~~11-821~~ ~~11-811~~.
- 19 6. "Adult theater" has the same meaning prescribed in section ~~11-821~~
- 20 ~~11-811~~.
- 21 7. "Escort" means a person who for consideration agrees or offers to
- 22 act as a companion, guide or date for another person or who agrees or offers
- 23 to privately model lingerie or to privately perform a striptease for another
- 24 person.
- 25 8. "Escort agency" means a person or business association that
- 26 furnishes, offers to furnish or advertises the furnishing of escorts as one
- 27 of its primary business purposes for any fee, tip or other consideration.
- 28 9. "Nude model studio" has the same meaning prescribed in section
- 29 ~~11-821~~ ~~11-811~~.
- 30 10. "Nude", "nudity" or "state of nudity" has the same meaning
- 31 prescribed in section ~~11-821~~ ~~11-811~~.
- 32 11. "Place of worship" means a structure where persons regularly
- 33 assemble for worship, ceremonies, rituals and education relating to a
- 34 particular form of religious belief and which a reasonable person would
- 35 conclude is a place of worship by reason of design, signs or architectural or
- 36 other features.
- 37 12. "Residence" means a permanent dwelling place.
- 38 13. "Seminude" has the same meaning prescribed in section ~~11-821~~
- 39 ~~11-811~~.
- 40 14. "Specific anatomical areas" has the same meaning prescribed in
- 41 section ~~11-821~~ ~~11-811~~.
- 42 15. "Specific sexual activities" has the same meaning prescribed in
- 43 section ~~11-821~~ ~~11-811~~.

1 Sec. 11. Section 27-441, Arizona Revised Statutes, is amended to read:
2 27-441. Definitions

3 In this article, unless the context otherwise requires:

4 1. "Aggregate" means cinders, crushed rock or stone, decomposed
5 granite, gravel, pumice, pumicite and sand.

6 2. "Aggregate mining" means clearing, covering or moving land using
7 mechanized earth-moving equipment on privately owned property for aggregate
8 development and production purposes, including ancillary aggregate finished
9 product activities. Aggregate mining includes an operation that mixes or
10 recycles rock, sand, gravel or similar aggregate materials with water and
11 cement or with asphalt. Aggregate mining does not include surveying, seismic
12 work, exploration or maintenance activities that create a de minimis land
13 disturbance.

14 3. "Aggregate mining operation" or "operation" means property that is
15 owned, operated or managed by the same person for mining aggregate and is
16 located in an aggregate mining operations zoning district established
17 pursuant to section ~~11-830~~ 11-812. Property that is not contiguous but is in
18 the same zoning district, that is owned, operated or managed by the same
19 person and that is operated as a single aggregate mining complex is
20 considered to be a single aggregate mining operation.

21 4. "Existing aggregate mining operation" means an aggregate mining
22 operation that was in operation on or before the date the aggregate mining
23 operations zoning district is established pursuant to section ~~11-830~~ 11-812.

24 5. "Major modification" means a change in an approved community notice
25 that is one or more of the following:

26 (a) An increase of more than twenty acres from that stated in the
27 currently approved community notice for the aggregate mining operation.

28 (b) A new and significant type of aggregate mining that has never been
29 conducted at the aggregate mining operation site.

30 (c) Substantive changes to the provisions of an approved community
31 notice required by section 27-442, subsection C, paragraphs 4, 6, 8, 9 and
32 10.

33 6. "Minor modification" means a change in a community notice that is
34 not a major modification.

35 7. "New aggregate mining operation" means an aggregate mining
36 operation that begins operations after the date the aggregate mining
37 operations zoning district is established pursuant to section ~~11-830~~ 11-812.

38 Sec. 12. Section 27-442, Arizona Revised Statutes, is amended to read:

39 27-442. Aggregate mining operations: community notice:
40 application

41 A. An owner or operator of an aggregate mining operation shall not
42 conduct any aggregate mining until it has an approved community notice
43 pursuant to section 27-445, except that an owner or operator of an existing
44 aggregate mining operation may continue the operation if a community notice
45 is filed as provided by subsection H of this section.

1 B. An owner or operator of an aggregate mining operation shall not
2 undertake a major modification of an approved community notice until a major
3 modification application is approved by the state mine inspector pursuant to
4 section 27-445.

5 C. The owner or operator of a new aggregate mining operation shall
6 file an application for a community notice with the inspector containing:

7 1. The name and mailing address of the aggregate mining operation.

8 2. The name and mailing address of the owner or operator of the
9 operation.

10 3. The name, mailing address and telephone number of the designated
11 community representative or representatives for the operation.

12 4. A statement describing the mining activities to be conducted at the
13 operation.

14 5. The amount of acreage of the operation and a map showing the
15 location of the major process facilities.

16 6. Each type of major equipment to be used in the operation.

17 7. The approximate date when the operation will start.

18 8. A description and location of access routes to be used to and from
19 the operation site during normal hours and nonemergency conditions.

20 9. The normal operating hours of the operation to be maintained during
21 nonemergency conditions, unless the inspector authorizes a temporary variance
22 from normal operating hours.

23 10. A description of measures the owner or operator will use to
24 moderate, to the extent economically practicable at the site, any adverse
25 physical effects on the residential property owners who are notified pursuant
26 to section 27-444.

27 D. An owner or operator who owns or leases the land of the operation
28 may submit a joint application for a community notice with one or more
29 lessees or sublessees who are also operating an aggregate mining operation on
30 the same property. A joint application for a community notice must
31 separately list the information required pursuant to subsection C of this
32 section by each owner or operator of an aggregate mining operation. Owners
33 or operators of aggregate mining operations who received approval for a joint
34 application for a community notice may also file a joint application on that
35 approved community notice for major and minor modifications.

36 E. The owner or operator may propose a major or minor modification by
37 filing an application with the inspector containing the text of the community
38 notice with the proposed changes noted in the text.

39 F. Within fourteen days after receiving an application for a community
40 notice for a new aggregate mining operation or major modification, the
41 inspector shall notify the applicant if the community notice application
42 contains the information required by subsection C of this section or if the
43 major modification application is complete pursuant to subsection E of this
44 section. If the inspector fails to notify the applicant within fourteen
45 days, the application is considered to be complete.

1 G. The owner or operator must file an application for a minor
2 modification to an approved community notice with the state mine inspector.
3 Minor modifications take effect on filing, unless a later effective date is
4 designated in the application. Applications for minor modifications are not
5 subject to sections 27-443, 27-444 and 27-445.

6 H. For purposes of having an approved community notice, within ninety
7 days after an aggregate mining operations zoning district is established
8 pursuant to section ~~11-830~~ 11-812, the owner or operator of an existing
9 aggregate mining operation must file with the state mine inspector a
10 community notice, which is not subject to sections 27-443 and 27-444. The
11 community notice shall contain all the information required by subsection C
12 of this section, except paragraph 7, for its aggregate mining operation.
13 Owners or operators of existing aggregate mining operations may submit a
14 joint application for a community notice pursuant to subsection D of this
15 section.

16 Sec. 13. Section 27-446, Arizona Revised Statutes, is amended to read:
17 27-446. Claims of deviation from an approved community notice

18 A. After a community notice is approved by the state mine inspector, a
19 residential property owner who resides within one-half mile of the boundaries
20 of the aggregate mining operation may submit a written complaint to the
21 designated community representative that the operation has materially
22 deviated from the approved community notice, specifying the community notice
23 provision that is in question and the nature of the material deviation.

24 B. If the aggregate mining operation does not address the complaint to
25 the satisfaction of the residential property owner within thirty days after
26 receiving the complaint, the notified residential property owner may file the
27 same complaint with the inspector with a statement that the aggregate mining
28 operation has not addressed the complaint to the property owner's
29 satisfaction.

30 C. In counties that have established an aggregate mining operations
31 recommendation committee pursuant to section ~~11-830~~ 11-812, the inspector
32 shall request the committee to hear the complaint. The committee shall
33 advise the inspector within thirty days in writing of its findings and
34 recommendations regarding the complaint. The inspector shall render a
35 decision on the complaint within thirty days after receiving the committee's
36 recommendation. The inspector shall notify, in writing, the owner or
37 operator of the aggregate mining operation, the complainant and the committee
38 of the decision.

39 Sec. 14. Section 27-447, Arizona Revised Statutes, is amended to read:
40 27-447. Inspection and enforcement

41 A. The state mine inspector may enter and inspect any aggregate mining
42 operation to determine compliance with an approved community notice.

43 B. If the inspector determines that a person is violating this
44 article, an approved community notice or aggregate mining operations zoning
45 district standards regulation adopted by a county and approved by the state

1 mining inspector pursuant to section ~~11-830~~ 11-812, the inspector may issue
2 an order requiring compliance either immediately if the violation is causing
3 an imminent and substantial danger to the public or within a stated period of
4 time. A compliance order must state with reasonable specificity the nature
5 of the community notice violation, a reasonable amount of time for
6 compliance, if applicable, and the right to a hearing. The inspector shall
7 transmit the compliance order to the alleged violator either by certified
8 mail, return receipt requested, or by hand delivery. At the inspector's
9 request, the attorney general may file an action to enforce orders issued
10 under this section after the order becomes final. The action must be filed
11 in the superior court in the county in which the alleged violation occurred
12 or in which the inspector maintains an office.

13 C. The inspector may suspend, withdraw or revoke a community notice
14 approval if the inspector determines that the aggregate mining operation is
15 in violation of an approved community notice. Any action taken under this
16 subsection must comply with the requirements of title 41, chapter 6, article
17 10 and section 41-1009, subsection E.

18 D. If the inspector has reason to believe that a person is violating
19 this article or an approved community notice or aggregate mining operations
20 zoning district standards regulation adopted by a county and approved by the
21 inspector pursuant to section ~~11-830~~ 11-812 or that a person is causing an
22 imminent and substantial danger to the public safety, the inspector, through
23 the attorney general, may request a temporary restraining order, a
24 preliminary injunction or any other relief necessary to protect the public
25 safety without regard to whether the person has requested a hearing. An
26 action filed pursuant to this subsection must be brought in the superior
27 court in the county in which the alleged violation occurred or in which the
28 inspector maintains an office.

29 Sec. 15. Section 28-6705, Arizona Revised Statutes, is amended to
30 read:

31 28-6705. Public road and street maintenance

32 A. The board of supervisors may spend public monies for maintenance of
33 public roads and streets other than legally designated state and county
34 highways located without the limits of an incorporated city or town. Before
35 spending public monies under this section, the roads or streets shall be
36 both:

- 37 1. Laid out, opened and constructed without cost to the county.
- 38 2. Completed pursuant to a plat approved pursuant to sections 11-802
39 and ~~11-806-01~~ 11-822 and in accordance with standard engineering road
40 specifications adopted by the board of supervisors to ensure uniform
41 compliance.

42 B. The board of supervisors may spend public monies for maintenance of
43 public roads and streets laid out, constructed and opened before June 13,
44 1975 even if the roads and streets were not constructed in accordance with
45 subsection A of this section.

1 C. Maintenance of a public road or street does not include purchasing
2 or laying cement. To reduce long-term maintenance costs for maintenance
3 authorized by this section, the board of supervisors may spend monies to add
4 rock products, gravel and processed materials to the base of the roads and
5 streets. Petroleum based or nonpetroleum based products may be used in the
6 maintenance and repair of unpaved roads, alleys and shoulders identified
7 pursuant to section 9-500.04 or 49-474.01 or unpaved roads, alleys and
8 shoulders in any county where the control officer as defined in section
9 49-471 certifies to the board of supervisors that emissions from such roads,
10 alleys or shoulders may endanger compliance with the national ambient air
11 quality standard as defined in section 49-401.01.

12 Sec. 16. Section 28-6713, Arizona Revised Statutes, is amended to
13 read:

14 28-6713. Bids for construction, reconstruction, equipment or
15 supplies; procedure; bond; exceptions

16 A. Except as provided in subsection G of this section, in a county
17 with a population of two hundred fifty thousand persons or more as determined
18 by the most recent United States decennial census or the most recent special
19 census as provided in section 28-6532, bids for all items of construction or
20 reconstruction involving an expenditure equal to or greater than the amount
21 determined pursuant to subsection B of this section, all purchases or other
22 acquisition of equipment involving an expenditure of more than five thousand
23 dollars and all purchases of supplies and materials involving an expenditure
24 of two thousand five hundred dollars or more shall be called for by
25 advertising in a newspaper of general circulation in the county for two
26 consecutive publications if it is a weekly newspaper, or for two publications
27 of at least six but not more than ten days apart if it is a daily newspaper.
28 The advertisement shall state specifically the character of the work to be
29 done and the kind and quality of materials or supplies to be furnished.

30 B. Bids shall be called pursuant to subsection A of this section for
31 all items of construction or reconstruction involving an expenditure of:

- 32 1. In fiscal year 1985-1986, thirty-five thousand dollars.
33 2. In fiscal year 1986-1987 and each fiscal year thereafter, the
34 amount provided in paragraph 1 of this subsection adjusted by the annual
35 percentage change in the GDP price deflator as defined in section 41-563.

36 C. If the board of supervisors receives a satisfactory bid, it shall
37 contract with the lowest responsible bidder after the contractor or supplier
38 gives any bond required by title 34, chapter 2, article 2, except that in
39 counties with a population of more than one million persons according to the
40 most recent United States decennial census, in determining the lowest
41 responsible bidder under this section, the board may consider, for no more
42 than five projects, the time of completion proposed by the bidder, the value
43 over time of completed services and facilities and the value over time of
44 interrupted services, if the board determines that this procedure will serve
45 the public interest by providing a substantial fiscal benefit or that the use

1 of the traditional awarding of contracts is not practicable for meeting
2 desired construction standards or delivery schedules and if the formula for
3 considering the time of completion is specifically stated in the bidding
4 information. The board may reject any or all bids and readvertise.

5 D. The board of supervisors, a member of the board of supervisors or
6 any other official or agent of a county affected by this section shall not
7 segregate or divide into separate units a contiguous or continuous portion of
8 highway construction or reconstruction or divide into separate portions an
9 item of equipment or generally recognized unit of supplies or material to
10 avoid the restrictions imposed by subsection A of this section.

11 E. The board of supervisors, a member of the board of supervisors or
12 any other official or agent of a county affected by this section shall make
13 every effort to combine the following:

14 1. Separate portions of highway construction or reconstruction
15 projects.

16 2. Items of equipment, supplies and materials.

17 F. After a contract has been awarded, the board of supervisors'
18 authorized representative may authorize change orders to the contract if
19 necessary pursuant to guidelines set by the board of supervisors. This
20 authority does not permit the board of supervisors' authorized representative
21 to act independently to award new contracts.

22 G. A building, structure, addition or alteration may be constructed
23 without complying with the bidding requirements of this section if the
24 construction, including construction of buildings or structures on public or
25 private property, is required as a condition of development of private
26 property and is authorized by section 9-463.01 or ~~11-806.01~~ 11-821 OR 11-822.
27 For the purposes of this subsection, building does not include any police,
28 fire, school, library or other public building.

29 H. Subsections A, B and C of this section do not apply to procurement
30 of construction-manager-at-risk, design-build and job-order-contracting
31 construction services pursuant to title 34, chapter 6.

32 Sec. 17. Section 28-8481, Arizona Revised Statutes, is amended to
33 read:

34 28-8481. Planning and zoning; military airport and ancillary
35 military facility's operation compatibility;
36 compliance review; penalty; definitions

37 A. A political subdivision that has territory in the vicinity of a
38 military airport or ancillary military facility that includes property in a
39 high noise or accident potential zone shall adopt comprehensive and general
40 plans and school district development plans, if applicable, for property in
41 the high noise or accident potential zone to assure development compatible
42 with the high noise and accident potential generated by military airport and
43 ancillary military facility operations that have or may have an adverse
44 effect on public health and safety. Each political subdivision, excluding
45 school districts, shall adopt and enforce zoning regulations for property in

1 the high noise or accident potential zone to assure development compatible
2 with the high noise and accident potential generated by military airport and
3 ancillary military facility operations that have or may have an adverse
4 effect on public health and safety.

5 B. A political subdivision that has territory in the vicinity of a
6 military airport or ancillary military facility shall incorporate sound
7 attenuation standards pursuant to section 28-8482 into any building code in
8 existence on or adopted after July 1, 2001 or after July 1 of the year in
9 which the land becomes territory in the vicinity of a military airport or
10 ancillary military facility. This section does not affect or require the
11 modification of any building permit issued before July 1, 2001 or before July
12 1 of the year in which the land becomes territory in the vicinity of a
13 military airport or ancillary military facility.

14 C. A political subdivision that has territory in the vicinity of a
15 military airport or ancillary military facility that includes property in a
16 high noise or accident potential zone shall adopt, administer and enforce the
17 zoning regulations or school district development plans authorized by
18 subsection A of this section in the same manner as the comprehensive zoning
19 ordinance or school district development plans of the political subdivision
20 as provided by law, except that a variance shall not be granted without a
21 specific finding that the purpose of military airport or ancillary military
22 facility compatibility is preserved.

23 D. This section does not affect the existing authority of a political
24 subdivision to plan and zone on the basis of noise or accident potential in
25 the vicinity of an airport owned or controlled by the political subdivision
26 or to adopt restrictions or limitations in addition to those required by this
27 section applicable to territory in the vicinity of a military airport or
28 ancillary military facility.

29 E. This section does not restrict, limit or modify, or authorize or
30 require any political subdivision to restrict, limit or modify, the right of
31 a landowner to undertake and complete development and use of any property
32 under the terms and conditions of a development plan or school district
33 development plan approved on or before December 31, 2000, or on or before
34 December 31 of the year in which the development's property becomes territory
35 in the vicinity of a military airport or ancillary military facility or
36 pursuant to a written determination of compatibility issued by the military
37 airport or ancillary military facility on or before December 31, 2004, by the
38 political subdivision in whose territory or area of jurisdiction the property
39 is located, except that the development must comply with the sound
40 attenuation standards and specifications incorporated into any building code
41 adopted pursuant to section 28-8482 by the political subdivision in whose
42 territory or area of jurisdiction the development is located.

43 F. This section does not restrict, limit or modify, or authorize or
44 require any political subdivision to restrict, limit or modify, the right of
45 a landowner to undertake and complete development and use of any property

1 located in a high noise or accident potential zone that is appurtenant to an
2 ancillary military facility under the terms and conditions of a development
3 plan or school district development plan approved on or before December 31,
4 2004 by the political subdivision in whose territory or area of jurisdiction
5 the property is located or pursuant to a written determination of
6 compatibility issued by the military airport or ancillary military facility
7 on or before December 31, 2004, except that the development shall comply with
8 the sound attenuation standards and specifications incorporated into any
9 building code adopted pursuant to section 28-8482 by the political
10 subdivision in whose territory or area of jurisdiction the development is
11 located.

12 G. On or after July 1, 2001 or on or after December 31 of the year in
13 which the property becomes territory in a high noise or accident potential
14 zone, a political subdivision that has property in a high noise or accident
15 potential zone shall notify the owner or owners of property in the high noise
16 and accident potential zone of any additions or changes under this section to
17 the general plan, comprehensive plan, zoning regulations or school district
18 development plan of the political subdivision applicable to property in the
19 high noise or accident potential zone. The political subdivision shall
20 provide a notice of such additions or changes by publication as provided in
21 section 9-462.04, subsection A or section 11-829, subsection C, including a
22 statement that the property is located in a high noise or accident potential
23 zone, at least thirty days before final approval of the addition to or change
24 in the general plan, permitted land uses, zoning regulation or school
25 district development plan and within thirty days following the final approval
26 of such an addition to or change in the general plan, permitted land uses,
27 zoning regulation or school district development plan.

28 H. Any property owner described in subsection G of this section shall
29 notify potential purchasers of the property and any potential lessees or
30 renters that the property is located in a high noise and accident potential
31 zone and is subject to the requirements of this section.

32 I. If a political subdivision includes property in the high noise or
33 accident potential zone of a military airport or ancillary military facility,
34 the political subdivision shall send notice to the attorney general of any
35 approval, adoption or readoption of, or major amendment to, the general or
36 comprehensive plan that impacts property in the high noise or accident
37 potential zone of a military airport or ancillary military facility within
38 three business days after the approval, adoption or readoption. If the
39 attorney general determines the approval, adoption or readoption of the
40 general or comprehensive plan or the major amendment to the general or
41 comprehensive plan is not in compliance with subsection J of this section,
42 the attorney general shall notify the political subdivision by certified
43 mail, return receipt requested, of the determination of noncompliance.
44 Within thirty days after the receipt of a determination of noncompliance by
45 the attorney general as prescribed by this section, the governing body of the

1 political subdivision shall reconsider any approval, adoption or readoption
 2 of, or major amendment to, the general or comprehensive plan that impacts
 3 property in the high noise or accident potential zone of a military airport
 4 or ancillary military facility. If the governing body reaffirms a prior
 5 action subject to an attorney general's determination of noncompliance
 6 pursuant to this section, the attorney general may institute a civil action
 7 pursuant to subsection L of this section. If a political subdivision timely
 8 sends notice pursuant to this subsection and the attorney general fails to
 9 timely notify the political subdivision of a determination of noncompliance,
 10 the general or comprehensive plan or major amendment to the general or
 11 comprehensive plan shall be deemed to comply with subsection J of this
 12 section.

13 J. The attorney general shall determine compliance with this section
 14 in accordance with the following requirements applicable to zoning and
 15 development in a high noise or accident potential zone and to zoning and
 16 development in accident potential zone one and accident potential zone
 17 two. Compliance with respect to territory located in the arrival and
 18 departure corridor but outside the accident potential zone one, two and noise
 19 contour lines as described in section 28-8461, paragraph 9, subdivision (c)
 20 shall be determined in accordance with the requirements applicable to
 21 territory located in the 65-69 day-night sound level as listed below.
 22 Compliance with respect to the property described in section 28-8461,
 23 paragraph 9, subdivision (b) shall be determined in accordance with the
 24 compatible land use plan in the joint land use study completed in February
 25 2004. If the political subdivision and the military airport mutually agree
 26 that an individual use is compatible and consistent with the high noise or
 27 accident potential of the military airport or ancillary military facility, as
 28 applicable, the use shall be deemed to comply with this subsection.
 29 Alternatively, for an individual use or a plan for development submitted to a
 30 military airport or ancillary military facility before December 31, 2004,
 31 this subsection does not preclude the military airport from determining that
 32 the individual use or plan for development is compatible and consistent with
 33 the high noise or accident potential zone of the military airport or
 34 ancillary military facility.

Day-night sound level in decibels
 high noise or accident
 potential zone (18)

38 Zoning and development in high 39 noise or accident potential 40 zone	65-69	70-74	75-79	80-84	85 or APZ over one	APZ two
41 42 <u>Residential</u> 43 Residential uses other than 44 the residential uses 45 listed below	No ⁽¹³⁾	No ⁽¹³⁾	No ⁽¹³⁾	No ⁽¹³⁾	No No	No

1	Single family residential	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	No ⁽¹³⁾	No ⁽¹³⁾	No	No ⁽¹³⁾
2	that is the subject of							
3	zoning approved on or							
4	before December 31, 2000,							
5	or on or before December 31							
6	of the year in which the							
7	property becomes territory							
8	in the vicinity of a							
9	military airport,							
10	that permits one dwelling							
11	unit per acre or less							
12	Single family residential	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	No ⁽¹³⁾	No	No ⁽¹³⁾
13	that is the primary residence							
14	for persons engaging in							
15	agricultural use and							
16	ancillary residential							
17	buildings incident to the							
18	primary agricultural use							
19	<u>Transportation, communications</u>							
20	<u>and utilities</u>							
21	Railroad and rapid rail transit	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁵⁾
22	Highway and street right-of-way	Yes	Yes	Yes	Yes	Yes	Yes	Yes
23	Motor vehicle parking	Yes	Yes	Yes	Yes	Yes	Yes ⁽¹⁵⁾	Yes ⁽¹⁵⁾
24	Communications	Yes	Yes ⁽²⁾	Yes ⁽³⁾	No	No	Yes ⁽¹⁵⁾	Yes ⁽¹⁶⁾
25	(noise sensitive)							
26	Utilities	Yes	Yes	Yes	No	No	Yes ⁽¹⁵⁾	Yes ⁽¹⁶⁾
27	Other transportation,	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	Yes ⁽⁸⁾	Yes ⁽¹⁵⁾	Yes ⁽¹⁶⁾
28	communications and utilities							
29	<u>Commercial/retail trade</u>							
30	Wholesale trade	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
31	Building materials-retail	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
32	General merchandise-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
33	Food-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
34	Automotive and marine	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No/Yes ⁽¹⁷⁾
35	Apparel and accessories-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
36	Eating and drinking places	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
37	Furniture and home	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No/Yes ⁽¹⁷⁾
38	furnishings-retail							
39	Other retail trade	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
40	<u>Personal and business services</u>							
41	Finance, insurance and real estate	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
42	Personal services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
43	Business services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
44	Repair services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
45	Contract construction services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes

1	Indoor recreation services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
2	Other services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
3	<u>Industrial/manufacturing</u>							
4	Food and kindred products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
5	Textile mill products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
6	Apparel	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
7	Lumber and wood products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
8	Furniture and fixtures	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
9	Paper and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
10	Printing and publishing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
11	Chemicals and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No
12	Petroleum refining and	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No
13	related industries							
14	Rubber and miscellaneous plastic	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
15	Stone, clay and glass products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
16	Primary metal industries	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
17	Fabricated metal products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
18	Professional, scientific and	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
19	controlling instruments							
20	Miscellaneous manufacturing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
21	<u>Public and quasi-public</u>							
22	<u>services</u>							
23	Government services	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽²⁾	No	No	No	Yes ⁽¹⁶⁾
24	Cultural activities,	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
25	including churches							
26	Medical and other health							
27	services	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
28	Cemeteries	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	Yes
29	Nonprofit organizations	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes
30	Correctional facilities	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽³⁾	Yes ⁽⁴⁾	No	No	Yes
31	Other public and quasi-public	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes ⁽¹⁶⁾
32	services							
33	<u>Outdoor recreation</u>							
34	Playgrounds and neighborhood							
35	parks	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
36	Community and regional	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
37	Nature exhibits	Yes	No	No	No	No	No	No
38	Spectator sports, including							
39	arenas	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No	No
40	Golf courses and riding stables	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	Yes ⁽¹⁵⁾	Yes
41	Water based recreational areas	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No
42	Resort and group camps	Yes ⁽¹³⁾	Yes ⁽²⁾	No	No	No	No	No
43	Auditoriums and concert halls	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	No	No
44	Outdoor amphitheaters and	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
45	music shells							

1	Other outdoor recreation	Yes	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
2	<u>Resource production.</u>							
3	<u>extraction and open space</u>							
4	Agriculture (except livestock)	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
5	Livestock farming and animal	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
6	breeding							
7	Forestry activities	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	No	Yes
8	Fishing activities and	Yes	Yes	No	No	No	No	No
9	related services							
10	Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes ⁽¹⁶⁾
11	Permanent open space	Yes	Yes	Yes	Yes	Yes	Yes	Yes
12	Water areas (not incidental to	Yes	Yes	No	No	No	No	No
13	farming)							

(1) Measures to achieve an outdoor to indoor noise reduction level of twenty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(2) Measures to achieve an outdoor to indoor noise reduction level of thirty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(3) Measures to achieve an outdoor to indoor noise reduction level of thirty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(4) Measures to achieve an outdoor to indoor noise reduction level of forty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(5) Measures to achieve an outdoor to indoor noise reduction level of twenty-five decibels must be incorporated into the design and construction of portions of buildings where the public is received, office areas, noise sensitive areas or where normal noise level is low.

(6) Measures to achieve an outdoor to indoor noise reduction level of thirty decibels must be incorporated into the design and construction of portions of buildings where the public is received, office areas, noise sensitive areas or where normal noise level is low.

(7) Measures to achieve an outdoor to indoor noise reduction level of thirty-five decibels must be incorporated into the design and construction of

1 portions of buildings where the public is received, office areas, noise
2 sensitive areas or where normal noise level is low.

3 (8) Measures to achieve an outdoor to indoor noise reduction level of
4 forty decibels must be incorporated into the design and construction of
5 portions of buildings where the public is received, office areas, noise
6 sensitive areas or where normal noise level is low.

7 (9) Measures to achieve an outdoor to indoor noise reduction level of
8 twenty-five decibels must be incorporated into the design and construction of
9 new residential buildings or expansions of existing residential buildings.

10 (10) Measures to achieve an outdoor to indoor noise reduction level of
11 thirty decibels must be incorporated into the design and construction of new
12 residential buildings or expansions of existing residential buildings.

13 (11) Measures to achieve an outdoor to indoor noise reduction level of
14 thirty-five decibels must be incorporated into the design and construction of
15 new residential buildings or expansions of existing residential buildings.

16 (12) Measures to achieve an outdoor to indoor noise reduction level of
17 forty decibels must be incorporated into the design and construction of new
18 residential buildings or expansions of existing residential buildings.

19 (13) No new residential buildings or expansions of existing residential
20 buildings are permitted.

21 (14) Compatible if special sound reinforcement systems are installed.

22 (15) No aboveground buildings or structures.

23 (16) No new buildings or improvements or expansion of nonagriculture
24 buildings or improvements for uses that result in the release of any
25 substance into the air that would impair visibility or otherwise interfere
26 with operating aircraft, such as any of the following:

27 (a) Steam, dust and smoke.

28 (b) Direct or indirect reflective light emissions.

29 (c) Electrical emissions that would interfere with aircraft and air
30 force communications or navigational aid systems or aircraft navigational
31 equipment.

32 (d) The attraction of birds or waterfowl such as operation of sanitary
33 landfills or maintenance of feeding stations.

34 (e) Explosives facilities or similar activities.

35 (17) If located in the extended portion of accident potential zone two
36 in territory of a political subdivision described in section 28-8461,
37 paragraph 9, subdivision (a).

38 (18) Uses not listed are presumed to not be compatible. If the
39 political subdivision and the military airport mutually agree that an
40 individual use is compatible and consistent with the high noise or accident
41 potential of the military airport or ancillary military facility, the use
42 shall be presumed to be compatible.

43 K. Pursuant to subsection I of this section, the attorney general
44 shall notify a political subdivision by certified mail, return receipt
45 requested, if the attorney general has probable cause to believe that the

1 political subdivision has not complied with the requirements set forth in
2 subsection J of this section. Nothing in this section shall authorize or
3 permit a finding of probable cause of noncompliance with respect to property
4 that is the subject of a development plan.

5 L. The following apply to enforcement actions brought under this
6 section:

7 1. The attorney general may institute a civil action in the name of
8 this state in the superior court in the county of the alleged violation
9 against a political subdivision that is required to notify the attorney
10 general pursuant to subsection I of this section to restrain, enjoin, correct
11 or abate a violation of this section, to collect a civil penalty ordered
12 pursuant to this section and to collect attorney fees and costs ordered
13 pursuant to this section if the attorney general has probable cause to
14 believe that an action to reaffirm an approval, adoption or readoption of, or
15 major amendment to, the general or comprehensive plan made by a political
16 subdivision is not in compliance with subsection J of this section.

17 2. If the attorney general institutes a civil action pursuant to
18 subsection I of this section, the civil action shall be filed within thirty
19 days after the action to reaffirm an approval, adoption or readoption of, or
20 major amendment to, the general plan or comprehensive plan.

21 3. The court shall award reasonable attorney fees and other costs in
22 favor of the prevailing party for any civil enforcement action brought under
23 this section. If the attorney general prevails, monies awarded pursuant to
24 this paragraph shall be retained by the attorney general and are continuously
25 appropriated.

26 4. The court may assess civil penalties in favor of this state to be
27 deposited in the state general fund. The political subdivision may be liable
28 for a civil penalty of up to five hundred dollars for each day for the first
29 ten days and up to five thousand dollars for each subsequent day up to a
30 maximum of fifty thousand dollars.

31 M. A political subdivision that has territory in the vicinity of a
32 military airport or ancillary military facility that includes property in a
33 high noise or accident potential zone shall submit any proposed comprehensive
34 or general plan amendments that are applicable to property within the high
35 noise or accident potential zone to the attorney general at least fifteen
36 days before the first public hearing required pursuant to section 9-461.06 or
37 ~~11-806~~ 11-805.

38 N. A political subdivision shall not permit or approve a division of
39 land zoned for residential use that is in a high noise or accident potential
40 zone of an ancillary military facility if the division would result in a lot,
41 parcel or fractional interest, being four acres or less unless the land
42 division is part of a development plan or a development agreement approved
43 before July 30, 2004 or is determined by the military airport or ancillary
44 military facility to be compatible with its operations before December 31,
45 2004. A political subdivision may grant a waiver from this subsection.

1 0. For purposes of determining the fair market value of property
2 located in a high noise or accident potential zone, or the development rights
3 appurtenant to the property, for acquisition by an agency or instrumentality
4 of the United States, this state or a political subdivision of this state,
5 property located in a high noise or accident potential zone that is not the
6 subject of a development plan under subsection E or F of this section shall
7 be deemed to have zoning allowing at least one residential dwelling per acre.

8 P. For the purposes of this section:

9 1. "Development plan":

10 (a) Means a plan that is submitted to and approved by the governing
11 body of the political subdivision pursuant to a zoning ordinance or
12 regulation adopted pursuant to title 9, chapter 4, article 6.1 or title 11,
13 chapter 6 and that describes with reasonable certainty the density and
14 intensity of use for a specific parcel or parcels of property.

15 (b) Includes a planned community development plan, a planned area
16 development plan, a planned unit development plan, a development plan that is
17 the subject of a development agreement adopted pursuant to section 9-500.05
18 or 11-1101, a site plan, a subdivision plat or any other land use approval
19 designation that is the subject of a zoning ordinance adopted pursuant to
20 title 9, chapter 4, article 6.1 or title 11, chapter 6.

21 (c) Means a conceptual plan for development that generally depicts
22 densities on a particular property that a military airport, as described in
23 SECTION 28-8461, paragraph 9, subdivision (a), deems is compatible with the
24 operation of the ancillary military facility.

25 2. "Major amendment" means a substantial alteration of a political
26 subdivision's land use mixture or balance as established in the political
27 subdivision's existing general or comprehensive plan land use element.

28 Sec. 18. Section 32-2181, Arizona Revised Statutes, is amended to
29 read:

30 32-2181. Notice to commissioner of intention to subdivide
31 lands; unlawful acting in concert; exceptions; deed
32 restrictions; definition

33 A. Before offering subdivided lands for sale or lease, the subdivider
34 shall notify the commissioner in writing of the subdivider's intention. The
35 notice shall contain:

36 1. The name and address of the owner. If the holder of any ownership
37 interest in the land is other than an individual, such as a corporation,
38 partnership or trust, a statement naming the type of legal entity and listing
39 the interest and the extent of any interest of each principal in the entity.
40 For the purposes of this section, "principal" means any person or entity
41 having a ten per cent or more financial interest or, if the legal entity is a
42 trust, each beneficiary of the trust holding a ten per cent or more
43 beneficial interest.

44 2. The name and address of the subdivider.

45 3. The legal description and area of the land.

1 4. A true statement of the condition of the title to the land,
2 including all encumbrances on the land, and a statement of the provisions
3 agreed to by the holder of any blanket encumbrance enabling a purchaser to
4 acquire title to a lot or parcel free of the lien of the blanket encumbrance
5 on completion of all payments and performance of all of the terms and
6 provisions required to be made or performed by the purchaser under the real
7 estate sales contract by which the purchaser has acquired the lot or parcel.
8 The subdivider shall file copies of documents acceptable to the department
9 containing these provisions with the commissioner before the sale of any
10 subdivision lot or parcel subject to a blanket encumbrance.

11 5. The terms and conditions on which it is intended to dispose of the
12 land, together with copies of any real estate sales contract, conveyance,
13 lease, assignment or other instrument intended to be used, and any other
14 information the owner or the owner's agent or subdivider desires to present.

15 6. A map of the subdivision that has been filed in the office of the
16 county recorder in the county in which the subdivision is located.

17 7. A brief but comprehensive statement describing the land on and the
18 locality in which the subdivision is located.

19 8. A statement of the provisions that have been made for permanent
20 access and provisions, if any, for health department approved sewage and
21 solid waste collection and disposal and public utilities in the proposed
22 subdivision, including water, electricity, gas and telephone facilities.

23 9. A statement as to the location of the nearest public common and
24 high schools available for the attendance of school age pupils residing on
25 the subdivision property.

26 10. A statement of the use or uses for which the proposed subdivision
27 will be offered.

28 11. A statement of the provisions, if any, limiting the use or
29 occupancy of the parcels in the subdivision, together with copies of any
30 restrictive covenants affecting all or part of the subdivision.

31 12. The name and business address of the principal broker selling or
32 leasing, within this state, lots or parcels in the subdivision.

33 13. A true statement of the approximate amount of indebtedness that is
34 a lien on the subdivision or any part of the subdivision and that was
35 incurred to pay for the construction of any on-site or off-site improvement,
36 or any community or recreational facility.

37 14. A true statement or reasonable estimate, if applicable, of the
38 amount of any indebtedness that has been or is proposed to be incurred by an
39 existing or proposed special district, entity, taxing area or assessment
40 district, within the boundaries of which the subdivision, or any part of the
41 subdivision, is located, and that is to pay for the construction or
42 installation of any improvement or to furnish community or recreational
43 facilities to the subdivision, and which amounts are to be obtained by ad
44 valorem tax or assessment, or by a special assessment or tax upon the
45 subdivision or any part of the subdivision.

1 15. A true statement as to the approximate amount of annual taxes,
2 special assessments or fees to be paid by the buyer for the proposed annual
3 maintenance of common facilities in the subdivision.

4 16. A statement of the provisions for easements for permanent access
5 for irrigation water where applicable.

6 17. A true statement of assurances for the completion of off-site
7 improvements, such as roads, utilities, community or recreational facilities
8 and other improvements to be included in the offering or represented as being
9 in the offering, and approval of the offering by the political subdivision
10 with authority. This statement shall include a trust agreement or any other
11 evidence of assurances for delivery of the improvements and a statement of
12 the provisions, if any, for the continued maintenance of the improvements.

13 18. A true statement of the nature of any improvements to be installed
14 by the subdivider, the estimated schedule for completion and the estimated
15 costs related to the improvements that will be borne by purchasers of lots in
16 the subdivision.

17 19. A true statement of the availability of sewage disposal facilities
18 and other public utilities, including water, electricity, gas and telephone
19 facilities in the subdivision, the estimated schedule for their installation,
20 and the estimated costs related to the facilities and utilities that will be
21 borne by purchasers of lots in the subdivision.

22 20. A true statement as to whether all or any portion of the
23 subdivision is located in an open range or area in which livestock may roam
24 at large under the laws of this state and what provisions, if any, have been
25 made for the fencing of the subdivision to preclude livestock from roaming
26 within the subdivided lands.

27 21. If the subdivider is a subsidiary corporation, a true statement
28 identifying the parent corporation and any of the following in which the
29 parent or any of its subsidiaries is or has been involved within the past
30 five years:

31 (a) Any subdivision in this state.

32 (b) Any subdivision, wherever located, for which registration is
33 required pursuant to the federal interstate land sales full disclosure act.

34 (c) Any subdivision, wherever located, for which registration would
35 have been required pursuant to the federal interstate land sales full
36 disclosure act but for the exemption for subdivisions whose lots are all
37 twenty acres or more in size.

38 22. A true statement identifying all other subdivisions, designated in
39 paragraph 21 of this subsection, in which any of the following is or, within
40 the last five years, has been directly or indirectly involved:

41 (a) The holder of any ownership interest in the land.

42 (b) The subdivider.

43 (c) Any principal or officer in the holder or subdivider.

44 23. A true statement as to whether all or any portion of the
45 subdivision is located in territory in the vicinity of a military airport or

1 ancillary military facility as defined in section 28-8461, in territory in
2 the vicinity of a public airport as defined in section 28-8486, on or after
3 July 1, 2001, in a high noise or accident potential zone as defined in
4 section 28-8461 or on or after July 1 of the year in which the subdivision
5 becomes located in a high noise or accident potential zone. The statement
6 required pursuant to this paragraph does not require the amendment or
7 refiling of any notice filed before July 1, 2001 or before July 1 of the year
8 in which the subdivision becomes located in a high noise or accident
9 potential zone.

10 24. If the subdivision is a conversion from multifamily rental to
11 condominiums as defined in section 33-1202, a true statement as to the
12 following:

13 (a) That the property is a conversion from multifamily rental to
14 condominiums.

15 (b) The date original construction was completed.

16 25. Other information and documents and certifications as the
17 commissioner may reasonably require provided that the subdivider shall not be
18 required to disclose any critical infrastructure information as defined in
19 section 41-1801 or any information contained in a report issued pursuant to
20 section 41-4273.

21 B. The commissioner, on application, may grant a subdivider of lots or
22 parcels within a subdivision for which a public report was previously issued
23 by the commissioner an exemption from all or part of the notification
24 requirements of subsection A of this section. The subdivider shall file a
25 statement with the commissioner indicating the change of ownership in the
26 lots or parcels together with any material changes occurring subsequent to
27 the original approval of the subdivision within which the lots or parcels are
28 located. The statement shall further refer to the original approval by the
29 commissioner.

30 C. If the subdivision is within an active management area, as defined
31 in section 45-402, the subdivider shall accompany the notice with a
32 certificate of assured water supply issued by the director of water resources
33 along with proof that all applicable fees have been paid pursuant to sections
34 48-3772 and 48-3774.01, unless the subdivider has obtained a written
35 commitment of water service for the subdivision from a city, town or private
36 water company designated as having an assured water supply by the director of
37 water resources pursuant to section 45-576 or is exempt from the requirement
38 pursuant to section 45-576. If the subdivider has submitted a certificate of
39 assured water supply to a city, town or county prior to approval of the plat
40 by the city, town or county and this has been noted on the face of the plat,
41 the submission constitutes compliance with this subsection if the subdivider
42 provides proof to the commissioner that all applicable fees have been paid
43 pursuant to sections 48-3772 and 48-3774.01.

44 D. It is unlawful for a person or group of persons acting in concert
45 to attempt to avoid this article by acting in concert to divide a parcel of

1 land or sell subdivision lots by using a series of owners or conveyances or
2 by any other method that ultimately results in the division of the lands into
3 a subdivision or the sale of subdivided land. The plan or offering is
4 subject to this article. Unlawful acting in concert pursuant to this
5 subsection with respect to the sale or lease of subdivision lots requires
6 proof that the real estate licensee or other licensed professional knew or
7 with the exercise of reasonable diligence should have known that property
8 which the licensee listed or for which the licensee acted in any capacity as
9 agent was subdivided land subject to this article.

10 E. A creation of six or more lots, parcels or fractional interests in
11 improved or unimproved land, lots or parcels of any size is subject to this
12 article except when:

13 1. Each of the lots, parcels or fractional interests represents, on a
14 partition basis, thirty-six acres or more in area of land located in this
15 state, including to the centerline of dedicated roads or easements, if any,
16 contiguous to the land in which the interests are held.

17 2. The lots, parcels or fractional interests are the result of a
18 foreclosure sale, the exercise by a trustee under a deed of trust of a power
19 of sale or the grant of a deed in lieu of foreclosure. This paragraph does
20 not allow circumvention of the requirements of this article.

21 3. The lots, parcels or fractional interests are created by a valid
22 order or decree of a court pursuant to and through compliance with title 12,
23 chapter 8, article 7 or by operation of law. This paragraph does not allow
24 circumvention of the requirements of this article.

25 4. The lots, parcels or fractional interests consist of interests in
26 any oil, gas or mineral lease, permit, claim or right therein and such
27 interests are regulated as securities by the United States or by this state.

28 5. The lots, parcels or fractional interests are registered as
29 securities under the laws of the United States or the laws of this state or
30 are exempt transactions under section 44-1844, 44-1845 or 44-1846.

31 6. The commissioner by special order exempts offerings or dispositions
32 of any lots, parcels or fractional interests from compliance with this
33 article on written petition and on a showing satisfactory to the commissioner
34 that compliance is not essential to the public interest or for the protection
35 of buyers.

36 F. In areas outside of active management areas established pursuant to
37 title 45, chapter 2, article 2:

38 1. If the subdivision is located in a county that has adopted the
39 provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A,
40 or in a city or town that has enacted an ordinance pursuant to section
41 9-463.01, subsection 0, the subdivider shall accompany the notice with a
42 report issued by the director of water resources pursuant to section 45-108
43 stating that the subdivision has an adequate water supply, unless one of the
44 following applies:

1 (a) The subdivider submitted the report to a city, town or county.
2 before approval of the plat by the city, town or county and this has been
3 noted on the face of the plat.

4 (b) The subdivider has obtained a written commitment of water service
5 for the subdivision from a city, town or private water company designated as
6 having an adequate water supply by the director of water resources pursuant
7 to section 45-108.

8 (c) The plat was approved pursuant to an exemption authorized by
9 section 9-463.01, subsection K, pursuant to an exemption authorized by
10 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant
11 to an exemption granted by the director of water resources under section
12 45-108.02 and the exemption has not expired or pursuant to an exemption
13 granted by the director under section 45-108.03. If the plat was approved
14 pursuant to an authorized exemption, the state real estate commissioner shall
15 require that all promotional material and contracts for the sale of lots in
16 the subdivision adequately display the following:

17 (i) The director of water resources' report or the developer's brief
18 summary of the report as approved by the commissioner on the proposed water
19 supply for the subdivision.

20 (ii) A statement describing the exemption under which the subdivision
21 was approved, including the specific conditions of the exemption that were
22 met. If the plat was approved by the legislative body of a city or town
23 pursuant to an exemption authorized by section 9-463.01, subsection K or by
24 the board of supervisors of a county pursuant to an exemption authorized by
25 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, the
26 subdivider shall record the document required by section 33-406.

27 (d) The subdivision received final plat approval from the city, town
28 or county before the requirement for an adequate water supply became
29 effective in the city, town or county, and there have been no material
30 changes to the plat since the final plat approval. If changes were made to
31 the plat after the final plat approval, the director of water resources shall
32 determine whether the changes are material pursuant to the rules adopted by
33 the director to implement section 45-108. If this subdivision applies, the
34 state real estate commissioner shall require that all promotional materials
35 and contracts for the sale of lots in the subdivision adequately display the
36 director of water resources' report or the developer's brief summary of the
37 report as approved by the commissioner on the proposed water supply for the
38 subdivision.

39 2. If the subdivision is not located in a county that has adopted the
40 provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A
41 or in a city or town that has enacted an ordinance pursuant to section
42 9-463.01, subsection O, and if the director of water resources, pursuant to
43 section 45-108, reports an inadequate on-site supply of water to meet the
44 needs projected by the developer or if no water is available, the state real
45 estate commissioner shall require that all promotional material and contracts

1 for the sale of lots in subdivisions approved by the commissioner adequately
2 display the director of water resources' report or the developer's brief
3 summary of the report as approved by the commissioner on the proposed water
4 supply for the subdivision.

5 G. The commissioner may require the subdivider to supplement the
6 notice of intention to subdivide lands and may require the filing of periodic
7 reports to update the information contained in the original notice of
8 intention to subdivide lands.

9 H. The commissioner may authorize the subdivider to file as the notice
10 of intention to subdivide lands, in lieu of some or all of the requirements
11 of subsection A of this section, a copy of the statement of record filed with
12 respect to the subdivision pursuant to the federal interstate land sales full
13 disclosure act if the statement complies with the requirements of the act and
14 the regulations pertinent to the act.

15 I. Neither a real estate sales contract, conveyance, lease, assignment
16 or other instrument to transfer any interest in subdivided land nor any
17 covenant or restriction affecting real property shall contain any provision
18 limiting the right of any party to appear or testify in support of or
19 opposition to zoning changes, building permits or any other official acts
20 affecting real property before a governmental body or official considering
21 zoning changes, building permits or any other official acts affecting real
22 property, whether the property is located within or outside of the boundaries
23 of the subdivision. All contractual provisions that conflict with this
24 subsection are declared to be contrary to public policy. Nothing contained
25 in this subsection shall prohibit private restrictions on the use of any real
26 property.

27 J. Before offering subdivided lands for lease or sale, the subdivider
28 who makes any promises through any form of advertising media that the
29 subdivided lands will be exclusively a retirement community or one that is
30 limited to the residency of adults or senior citizens shall include the
31 promises in the deed restrictions affecting any interest in real property
32 within the subdivided lands.

33 Sec. 19. Section 32-2183, Arizona Revised Statutes, is amended to
34 read:

35 32-2183. Subdivision public reports; denial of issuance;
36 unlawful sales; voidable sale or lease; order
37 prohibiting sale or lease; investigations; hearings;
38 summary orders

39 A. Upon examination of a subdivision, the commissioner, unless there
40 are grounds for denial, shall issue to the subdivider a public report
41 authorizing the sale or lease in this state of the lots, parcels or
42 fractional interests within the subdivision. The report shall contain the
43 data obtained in accordance with section 32-2181 and any other information
44 which the commissioner determines is necessary to implement the purposes of
45 this article. If any of the lots, parcels or fractional interests within the

1 subdivision are located within territory in the vicinity of a military
2 airport or ancillary military facility as defined in section 28-8461, under a
3 military training route as delineated in the military training route map
4 prepared pursuant to section 37-102, under restricted air space as delineated
5 in the restricted air space map prepared pursuant to section 37-102 or
6 contained in the military electronics range as delineated in the military
7 electronics range map prepared pursuant to section 37-102, the report shall
8 include, in bold twelve point font block letters on the first page of the
9 report, the statements required pursuant to section 28-8484, subsection A,
10 section 32-2183.05 or section 32-2183.06 and, if the department has been
11 provided a map prepared pursuant to section 28-8484, subsection B or section
12 37-102, the report shall include a copy of the map. The military airport
13 report requirements do not require the amendment or reissuance of any public
14 report issued on or before December 31, 2001 or on or before December 31 of
15 the year in which the lots, parcels or fractional interests within a
16 subdivision become territory in the vicinity of a military airport or
17 ancillary military facility. The military training route report requirements
18 do not require the amendment or reissuance of any public report issued on or
19 before December 31, 2004. The restricted air space report requirements do
20 not require the amendment or reissuance of any public report issued on or
21 before December 31, 2006. The military electronics range report requirements
22 do not require the amendment or reissuance of any public report issued on or
23 before December 31, 2008. The commissioner shall require the subdivider to
24 reproduce the report, make the report available to each prospective customer
25 and furnish each buyer or lessee with a copy before the buyer or lessee signs
26 any offer to purchase or lease, taking a receipt therefor.

27 B. This section shall not be construed to require a public report
28 issued sixty or fewer days prior to the filing of the military electronics
29 range map prepared pursuant to section 37-102 to meet the military
30 electronics range notification requirements of this section.

31 C. A public report issued sixty-one or more days after the filing of
32 the military electronics range map prepared pursuant to section 37-102 shall
33 meet all of the requirements of subsection A of this section.

34 D. Notwithstanding subsection A of this section, a subdivider may
35 elect to prepare a final public report for use in the sale of improved lots
36 as defined in section 32-2101, as follows:

37 1. The subdivider shall prepare the public report and provide a copy
38 of the report to the commissioner with the submission of the notification
39 required by sections 32-2181 and 32-2184 and shall comply with all other
40 requirements of this article.

41 2. An initial filing fee of five hundred dollars or an amended filing
42 fee of two hundred fifty dollars shall accompany the notification required by
43 paragraph 1 of this subsection.

44 3. The department shall assign a registration number to each
45 notification and public report submitted pursuant to this subsection and

1 shall maintain a database of all of these submissions. The subdivider shall
2 place the number on each public report.

3 4. On receipt of the notification and public report, the department
4 shall review and issue within ten business days either a certification that
5 the notification and public report are administratively complete or a denial
6 letter if it appears that the application or project is not in compliance
7 with all legal requirements, that the applicant has a background of
8 violations of state or federal law or that the applicant or project presents
9 an unnecessary risk of harm to the public. If the commissioner has received
10 the notification and public report but has not issued a certification or a
11 denial letter within ten business days pursuant to this paragraph, the
12 notification and public report are administratively complete.

13 5. A subdivider may commence sales or leasing activities as permitted
14 under this article after obtaining a certificate of administrative
15 completeness from the commissioner.

16 6. Before or after the commissioner issues a certificate of
17 administrative completeness or, if applicable, after the notification and
18 public report are deemed to be administratively complete pursuant to
19 paragraph 4 of this subsection, the department may examine any public report,
20 subdivision or applicant that has applied for or received the certificate.
21 If the commissioner determines that the subdivider or subdivision is not in
22 compliance with any requirement of state law or that grounds exist under this
23 chapter to suspend, deny or revoke a public report, the commissioner may
24 commence an administrative action under section 32-2154 or 32-2157. If the
25 subdivider immediately corrects the deficiency and comes into full compliance
26 with state law, the commissioner shall vacate any action that the
27 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

28 7. The department shall provide forms and guidelines for the
29 submission of the notification and public report pursuant to this section.

30 E. The commissioner may suspend, revoke or deny issuance of a public
31 report on any of the following grounds:

32 1. Failure to comply with this article or the rules of the
33 commissioner pertaining to this article.

34 2. The sale or lease would constitute misrepresentation to or deceit
35 or fraud of the purchasers or lessees.

36 3. Inability to deliver title or other interest contracted for.

37 4. Inability to demonstrate that adequate financial or other
38 arrangements acceptable to the commissioner have been made for completion of
39 all streets, sewers, electric, gas and water utilities, drainage and flood
40 control facilities, community and recreational facilities and other
41 improvements included in the offering.

42 5. Failure to make a showing that the lots, parcels or fractional
43 interests can be used for the purpose for which they are offered.

44 6. The owner, agent, subdivider, officer, director or partner,
45 subdivider trust beneficiary holding ten per cent or more direct or indirect

1 beneficial interest or, if a corporation, any stockholder owning ten per cent
2 or more of the stock in the corporation has:

3 (a) Been convicted of a felony or misdemeanor involving fraud or
4 dishonesty or involving conduct of any business or a transaction in real
5 estate, cemetery property, time-share intervals or membership camping
6 campgrounds or contracts.

7 (b) Been permanently or temporarily enjoined by order, judgment or
8 decree from engaging in or continuing any conduct or practice in connection
9 with the sale or purchase of real estate or cemetery property, time-share
10 intervals, membership camping contracts or campgrounds, or securities or
11 involving consumer fraud or the racketeering laws of this state.

12 (c) Had an administrative order entered against him by a real estate
13 regulatory agency or security regulatory agency.

14 (d) Had an adverse decision or judgment entered against him involving
15 fraud or dishonesty or involving the conduct of any business or transaction
16 in real estate, cemetery property, time-share intervals or membership camping
17 campgrounds or contracts.

18 (e) Disregarded or violated this chapter or the rules of the
19 commissioner pertaining to this chapter.

20 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
21 applies.

22 7. Procurement or an attempt to procure a public report by fraud,
23 misrepresentation or deceit or by filing an application for a public report
24 that is materially false or misleading.

25 8. Failure of the declaration for a condominium created pursuant to
26 title 33, chapter 9, article 2 to comply with the requirements of section
27 33-1215 or failure of the plat for the condominium to comply with the
28 requirements of section 33-1219. The commissioner may require an applicant
29 for a public report to submit a notarized statement signed by the subdivider
30 or an engineer or attorney licensed to practice in this state certifying that
31 the condominium plat and declaration of condominium are in compliance with
32 the requirements of sections 33-1215 and 33-1219. If the notarized statement
33 is provided, the commissioner is entitled to rely on this statement.

34 9. Failure of any blanket encumbrance or valid supplementary agreement
35 executed by the holder of the blanket encumbrance to contain provisions that
36 enable the purchaser to acquire title to a lot or parcel free of the lien of
37 the blanket encumbrance, on completion of all payments and performance of all
38 of the terms and provisions required to be made or performed by the purchaser
39 under the real estate sales contract by which the purchaser has acquired the
40 lot or parcel. The subdivider shall file copies of documents acceptable to
41 the commissioner containing these provisions with the commissioner before the
42 sale of any subdivision lot or parcel subject to a blanket encumbrance.

43 10. Failure to demonstrate permanent access to the subdivision lots or
44 parcels.

45 11. The use of the lots presents an unreasonable health risk.

1 F. It is unlawful for a subdivider to sell any lot in a subdivision
2 unless one of the following occurs:

3 1. All proposed or promised subdivision improvements are completed.

4 2. The completion of all proposed or promised subdivision improvements
5 is assured by financial arrangements acceptable to the commissioner. The
6 financial arrangements may be made in phases for common community and
7 recreation facilities required by a municipality or county as a stipulation
8 for approval of a plan for a master planned community.

9 3. The municipal or county government agrees to prohibit occupancy and
10 the subdivider agrees not to close escrow for lots in the subdivision until
11 all proposed or promised subdivision improvements are completed.

12 4. The municipal or county government enters into an assurance
13 agreement with any trustee not to convey lots until improvements are
14 completed within the portion of the subdivision containing these lots, if the
15 improvements can be used and maintained separately from the improvements
16 required for the entire subdivision plat. The agreement shall be recorded in
17 the county in which the subdivision is located.

18 G. If the subdivision is within an active management area, as defined
19 in section 45-402, the commissioner shall deny issuance of a public report or
20 the use of any exemption pursuant to section 32-2181.02, subsection B unless
21 the subdivider has been issued a certificate of assured water supply by the
22 director of water resources and has paid all applicable fees pursuant to
23 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a
24 written commitment of water service for the subdivision from a city, town or
25 private water company designated as having an assured water supply by the
26 director of water resources pursuant to section 45-576 or is exempt from the
27 requirement pursuant to section 45-576.

28 H. In areas outside of active management areas, if the subdivision is
29 located in a county that has adopted the provision authorized by section
30 ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town that has
31 enacted an ordinance pursuant to section 9-463.01, subsection O, the
32 commissioner shall deny issuance of a public report or the use of any
33 exemption pursuant to section 32-2181.02, subsection B unless one of the
34 following applies:

35 1. The director of water resources has reported pursuant to section
36 45-108 that the subdivision has an adequate water supply.

37 2. The subdivider has obtained a written commitment of water service
38 for the subdivision from a city, town or private water company designated as
39 having an adequate water supply by the director of water resources pursuant
40 to section 45-108.

1 3. The plat was approved pursuant to an exemption authorized by
2 section 9-463.01, subsection K, pursuant to an exemption authorized by
3 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant
4 to an exemption granted by the director of water resources under section
5 45-108.02 and the exemption has not expired or pursuant to an exemption
6 granted by the director of water resources under section 45-108.03.

7 4. The subdivision received final plat approval from the city, town or
8 county before the requirement for an adequate water supply became effective
9 in the city, town or county, and there have been no material changes to the
10 plat since the final plat approval. If changes were made to the plat after
11 the final plat approval, the director of water resources shall determine
12 whether the changes are material pursuant to the rules adopted by the
13 director to implement section 45-108.

14 I. A subdivider shall not sell or lease or offer for sale or lease in
15 this state any lots, parcels or fractional interests in a subdivision without
16 first obtaining a public report from the commissioner except as provided in
17 section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of
18 subdivided lands prior to issuance of the public report or failure to deliver
19 the public report to the purchaser or lessee shall render the sale or lease
20 rescindable by the purchaser or lessee. An action by the purchaser or lessee
21 to rescind the transaction shall be brought within three years of the date of
22 execution of the purchase or lease agreement by the purchaser or lessee. In
23 any rescission action, the prevailing party is entitled to reasonable
24 attorney fees as determined by the court.

25 J. Any applicant objecting to the denial of a public report, within
26 thirty days after receipt of the order of denial, may file a written request
27 for a hearing. The commissioner shall hold the hearing within twenty days
28 after receipt of the request for a hearing unless the party requesting the
29 hearing has requested a postponement. If the hearing is not held within
30 twenty days after a request for a hearing is received, plus the period of any
31 postponement, or if a proposed decision is not rendered within forty-five
32 days after submission, the order of denial shall be rescinded and a public
33 report issued.

34 K. On the commissioner's own motion, or when the commissioner has
35 received a complaint and has satisfactory evidence that the subdivider or the
36 subdivider's agent is violating this article or the rules of the commissioner
37 or has engaged in any unlawful practice as defined in section 44-1522 with
38 respect to the sale of subdivided lands or deviated from the provisions of
39 the public report, the commissioner may investigate the subdivision project
40 and examine the books and records of the subdivider. For the purpose of
41 examination, the subdivider shall keep and maintain records of all sales
42 transactions and funds received by the subdivider pursuant to the sales
43 transactions and shall make them accessible to the commissioner upon
44 reasonable notice and demand.

1 L. On the commissioner's own motion, or when the commissioner has
2 received a complaint and has satisfactory evidence that any person has
3 violated this article or the rules of the commissioner or has engaged in any
4 unlawful practice as defined in section 44-1522 with respect to the sale of
5 subdivided lands or deviated from the provisions of the public report or
6 special order of exemption, or has been indicted for fraud or against whom an
7 information for fraud has been filed or has been convicted of a felony,
8 before or after the commissioner issues the public report as provided in
9 subsection A of this section, the commissioner may conduct an investigation
10 of the matter, issue a summary order as provided in section 32-2157, or hold
11 a public hearing and, after the hearing, may issue the order or orders the
12 commissioner deems necessary to protect the public interest and ensure
13 compliance with the law, rules or public report or the commissioner may bring
14 action in any court of competent jurisdiction against the person to enjoin
15 the person from continuing the violation or engaging in or doing any act or
16 acts in furtherance of the violation. The court may make orders or
17 judgments, including the appointment of a receiver, necessary to prevent the
18 use or employment by a person of any unlawful practices, or which may be
19 necessary to restore to any person in interest any monies or property, real
20 or personal, that may have been acquired by means of any practice in this
21 article declared to be unlawful.

22 M. When it appears to the commissioner that a person has engaged in or
23 is engaging in a practice declared to be unlawful by this article and that
24 the person is concealing assets or self or has made arrangements to conceal
25 assets or is about to leave the state, the commissioner may apply to the
26 superior court, ex parte, for an order appointing a receiver of the assets of
27 the person or for a writ of ne exeat, or both.

28 N. The court, on receipt of an application for the appointment of a
29 receiver or for a writ of ne exeat, or both, shall examine the verified
30 application of the commissioner and other evidence that the commissioner may
31 present the court. If satisfied that the interests of the public require the
32 appointment of a receiver or the issuance of a writ of ne exeat without
33 notice, the court shall issue an order appointing the receiver or issue the
34 writ, or both. If the court determines that the interests of the public will
35 not be harmed by the giving of notice, the court shall set a time for a
36 hearing and require notice be given as the court deems satisfactory.

37 O. If the court appoints a receiver without notice, the court shall
38 further direct that a copy of the order appointing a receiver be served on
39 the person engaged in or engaging in a practice declared to be unlawful under
40 this article by delivering the order to the last address of the person that
41 is on file with the state real estate department. The order shall inform the
42 person that the person has the right to request a hearing within ten days of
43 the date of the order and, if requested, the hearing shall be held within
44 thirty days from the date of the order.

1 Sec. 20. Section 32-2197.08, Arizona Revised Statutes, is amended to
2 read:

3 32-2197.08. Issuance of public report by commissioner on
4 timeshare plan; denial of issuance; additional
5 information; use of another state's public report

6 A. On examination of a timeshare plan, the commissioner, unless there
7 are grounds for denial, shall approve for use by the developer a public
8 report authorizing the sale or lease of the timeshare interests within the
9 timeshare plan. For all timeshare interests sold in this state, the
10 commissioner shall require the developer to reproduce the public report and
11 furnish each prospective customer with a copy, taking a receipt for each
12 copy. The public report shall be made available to each prospective
13 purchaser in written format and may also be made available in CD-ROM or other
14 electronic format as approved by the commissioner. The public report shall
15 include the following:

- 16 1. The name and principal address of the owner and developer.
- 17 2. A description of the type of timeshare interests being offered.
- 18 3. A description of the existing and proposed accommodations and
19 amenities of the timeshare plan, including type and number, any use
20 restrictions and any required fees for use.
- 21 4. A description of any accommodations and amenities that are
22 committed to be built, including:
 - 23 (a) The developer's schedule of commencement and completion of all
24 accommodations and amenities.
 - 25 (b) The estimated number of accommodations per site that may become
26 subject to the timeshare plan.
- 27 5. A brief description of the duration, phases and operation of the
28 timeshare plan.
- 29 6. The current annual budget if available or the projected annual
30 budget for the timeshare plan. The budget shall include:
 - 31 (a) A statement of the amount or a statement that there is no amount
32 included in the budget as a reserve for repairs and replacement.
 - 33 (b) The projected common expense liability, if any, by category of
34 expenditures for the timeshare plan.
 - 35 (c) A statement of any services or expenses that are not reflected in
36 the budget and that the developer provides or pays.
- 37 7. A description of any liens, defects or encumbrances on or affecting
38 the title to the timeshare interests.
- 39 8. A statement that by midnight of the seventh calendar day after
40 execution of the purchase agreement a purchaser may cancel any purchase
41 agreement for a timeshare interest from a developer together with a statement
42 providing the name and street address where the purchaser should mail any
43 notice of cancellation. However, if, by agreement of the parties through the
44 purchase agreement, the purchase agreement allows for cancellation of the
45 purchase agreement for a period of time exceeding seven calendar days, the

1 public report shall include a statement that the cancellation of the purchase
2 agreement is allowed for that period of time exceeding seven calendar days.

3 9. A description of any bankruptcies, pending suits, adjudications or
4 disciplinary actions material to the timeshare interests of which the
5 developer has knowledge.

6 10. Any restrictions on alienation of any number or portion of any
7 timeshare interests.

8 11. Any current or expected fees or charges to be paid by timeshare
9 purchasers for the use of any amenities related to the timeshare plan.

10 12. The extent to which financial arrangements have been provided for
11 completion of all promised improvements.

12 13. If the timeshare plan provides purchasers with the opportunity to
13 participate in any exchange programs, a description of the name and address
14 of the exchange companies and the method by which a purchaser accesses the
15 exchange programs.

16 14. Any other information that the developer, with the approval of the
17 commissioner, desires to include in the public report.

18 15. If the developer is offering a multisite timeshare plan, the
19 following information, which may be disclosed in a written, graphic or
20 tabular form:

21 (a) A description of each component site, including the name and
22 address of each component site.

23 (b) The number of accommodations and timeshare periods, expressed in
24 periods of use availability, committed to the multisite timeshare plan and
25 available for use by purchasers.

26 (c) Each type of accommodation in terms of the number of bedrooms,
27 bathrooms and sleeping capacity and a statement of whether or not the
28 accommodation contains a full kitchen. For the purposes of this subdivision,
29 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,
30 sink and refrigerator.

31 (d) A description of amenities available for use by the purchaser at
32 each component site.

33 (e) A description of the reservation system, including the following:

34 (i) The entity responsible for operating the reservation system.

35 (ii) A summary of the rules governing access to and use of the
36 reservation system.

37 (iii) The existence of and an explanation regarding any priority
38 reservation features that affect a purchaser's ability to make reservations
39 for the use of a given accommodation on a first reserved, first served basis.

40 (f) A description of any right to make any additions, substitutions or
41 deletions of accommodations or amenities and a description of the basis on
42 which accommodations and amenities may be added to, substituted in or deleted
43 from the multisite timeshare plan.

44 (g) A description of the purchaser's liability for any fees associated
45 with the multisite timeshare plan.

1 (h) The location and the anticipated relative use demand of each
2 component site in a multisite timeshare plan as well as any periodic
3 adjustment or amendment to the reservation system that may be needed in order
4 to respond to actual purchaser use patterns and changes in purchaser use
5 demand for the accommodations existing at the time within the multisite
6 timeshare plan.

7 (i) Any other information reasonably required by the commissioner or
8 established by rule necessary for the protection of purchasers of timeshare
9 interests in timeshare plans.

10 (j) Any other information that the developer, with the approval of the
11 commissioner, desires to include in the public report.

12 16. If a developer offers a nonspecific timeshare interest in a
13 multisite timeshare plan, the information set forth in paragraphs 1 through
14 14 of this subsection as to each component site.

15 17. Any other information that the commissioner determines or
16 establishes by rule is necessary to implement the purpose of this article.

17 B. In the event of denial, suspension or revocation, grounds shall be
18 set forth in writing at the time of denial, suspension or revocation. The
19 commissioner may deny, suspend or revoke the public report on any of the
20 following grounds:

21 1. Failure to comply with this article or the rules of the
22 commissioner pertaining to this article.

23 2. The sale or lease would constitute misrepresentation to or deceit
24 or fraud of the purchasers or lessees.

25 3. Inability to demonstrate that adequate financial or other
26 arrangements acceptable to the commissioner have been made for completion of
27 the timeshare property, installation of all streets, sewers, electric, gas
28 and water utilities, drainage, flood control and other similar improvements
29 included in the offering.

30 4. The developer, including if an entity, an officer, director,
31 member, manager, partner, owner, trust beneficiary holding ten per cent or
32 more beneficial interest, stockholder owning ten per cent or more of the
33 stock or other person exercising control of the entity, has:

34 (a) Been convicted of a felony or misdemeanor involving theft, fraud
35 or dishonesty or involving the conduct of any business or a transaction in
36 real estate, cemetery property, timeshare interests or membership camping
37 campgrounds or contracts.

38 (b) Been permanently or temporarily enjoined by order, judgment or
39 decree from engaging in or continuing any conduct or practice in connection
40 with the sale or purchase of real estate, cemetery property, timeshare
41 interests, membership camping campgrounds or contracts, or securities or
42 involving consumer fraud or the Arizona racketeering laws.

43 (c) Had an administrative order entered against him by a real estate
44 regulatory agency or securities regulatory agency.

1 (d) Had an adverse decision or judgment entered against him involving
2 fraud or dishonesty or involving the conduct of any business in or a
3 transaction in real estate, cemetery property, timeshare interests or
4 membership camping campgrounds or contracts.

5 (e) Disregarded or violated this chapter or the rules of the
6 commissioner pertaining to this chapter.

7 (f) Participated in, operated or held an interest in any entity to
8 which subdivision (b), (c), (d), or (e) of this paragraph applies.

9 5. If within this state, the timeshare property is incompatible with
10 the existing neighborhood and would introduce into a neighborhood a character
11 of property or use that would clearly be detrimental to property values in
12 that neighborhood.

13 C. If the timeshare property is within an active management area, as
14 defined in section 45-402, the commissioner shall deny issuance of a public
15 report unless the developer has been issued a certificate of assured water
16 supply by the director of water resources and has paid all applicable fees
17 pursuant to sections 48-3772 and 48-3774.01, or unless the developer has
18 obtained a written commitment of water service for the timeshare property
19 from a city, town or private water company designated as having an assured
20 water supply by the director of water resources pursuant to section 45-576.

21 D. In areas outside of active management areas, if the timeshare
22 property is located in a county that has adopted the provision authorized by
23 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town
24 that has enacted an ordinance pursuant to section 9-463.01, subsection O, the
25 commissioner shall deny issuance of a public report unless one of the
26 following applies:

27 1. The director of water resources has reported pursuant to section
28 45-108 that the timeshare property has an adequate water supply.

29 2. The developer has obtained a written commitment of water service
30 for the timeshare property from a city, town or private water company
31 designated as having an adequate water supply by the director of water
32 resources pursuant to section 45-108.

33 3. The timeshare property was approved pursuant to an exemption
34 authorized by section 9-463.01, subsection K, pursuant to an exemption
35 authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph
36 1, pursuant to an exemption granted by the director of water resources under
37 section 45-108.02 and the exemption has not expired or pursuant to an
38 exemption granted by the director of water resources under section 45-108.03.

39 4. The subdivision received final plat approval from the city, town or
40 county before the requirement for an adequate water supply became effective
41 in the city, town or county, and there have been no material changes to the
42 plat since the final plat approval. If changes were made to the plat after
43 the final plat approval, the director of water resources shall determine
44 whether the changes are material pursuant to the rules adopted by the
45 director to implement section 45-108.

1 E. In addition to providing to each prospective customer a copy of the
2 public report as required in subsection A of this section, the developer
3 shall also provide to each customer before the close of any transaction
4 information and materials that identify any timeshare exchange companies
5 currently under contract and disclosure statements regarding the use of the
6 timeshare exchange companies, as well as any additional information the
7 commissioner deems appropriate.

8 F. The commissioner may authorize for use in this state by a developer
9 of a timeshare plan in which all accommodations are located outside of this
10 state a current public report that is issued by another jurisdiction or an
11 equivalent registration and disclosure document that is required before
12 offering a timeshare plan for sale, lease or use and that is issued by
13 another jurisdiction. This authorization does not constitute an exemption
14 from other applicable requirements of this article.

15 Sec. 21. Section 33-406, Arizona Revised Statutes, is amended to read:

16 33-406. Disclosure of transportation of water to property by
17 motor vehicle or train; definition

18 A. Notwithstanding section 33-411, subsection D, a subdivider who
19 sells a lot that was included in a plat approved by the legislative body of a
20 city or town pursuant to an exemption authorized by section 9-463.01,
21 subsection K or by the board of supervisors of a county pursuant to an
22 exemption authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B,
23 paragraph 1 shall record with the plat a document that contains a legal
24 description of the land that is subject to the subdivision plat and that
25 contains a statement that the lots are served by a water supply that has been
26 determined as inadequate and that the water must be hauled to the lot.

27 B. For the purposes of this section, "subdivider" has the same meaning
28 as prescribed in section 32-2101.

29 Sec. 22. Section 33-422, Arizona Revised Statutes, is amended to read:

30 33-422. Land divisions; recording; disclosure affidavit

31 A. A seller of five or fewer parcels of land, other than subdivided
32 land, in an unincorporated area of a county and any subsequent seller of such
33 a parcel shall furnish a written affidavit of disclosure to the buyer, at
34 least seven days before the transfer of the property, and the buyer shall
35 acknowledge receipt of the affidavit.

36 B. The affidavit must be written in twelve point type.

37 C. No release or waiver of a seller's liability arising out of any
38 omission or misrepresentation contained in an affidavit of disclosure is
39 valid or binding on the buyer.

40 D. The buyer has the right to rescind the sales transaction for a
41 period of five days after the affidavit of disclosure is furnished to the
42 buyer.

1 E. The seller shall record the executed affidavit of disclosure at the
2 same time that the deed is recorded. The county recorder is not required to
3 verify the accuracy of any statement in the affidavit of disclosure. A
4 subsequently recorded affidavit supersedes any previous affidavit.

5 F. The affidavit of disclosure shall meet the requirements of section
6 11-480 and follow substantially the following form:

7 When recorded mail to:

8 _____
9 _____
10 _____
11 _____

12 Affidavit of Disclosure
13 Pursuant to A.R.S. §33-422

14 I, _____ (seller(s))
15 being duly sworn, hereby make this affidavit of disclosure
16 relating to the real property situated in the unincorporated
17 area of:

18 _____, County, State of Arizona, located at:

19 _____
20 and legally described as:

21 (Legal description attached hereto as exhibit "A")
22 (property).

- 23 1. There ☐ is ☐ is not legal access to the property, as
24 defined in A.R.S. § ~~11-809~~ 11-831 ☐ unknown

25 Explain: _____
26 _____
27 _____

- 28 2. There ☐ is ☐ is not physical access to the property.
29 ☐ unknown

30 Explain: _____
31 _____
32 _____

- 33 3. There ☐ is ☐ is not a statement from a licensed
34 surveyor or engineer available stating whether the property has
35 physical access that is traversable by a two-wheel drive passenger
36 motor vehicle.

- 37 4. The legal and physical access to the property ☐ is ☐ is not
38 the same....☐ unknown ☐ not applicable.

39 Explain: _____
40 _____
41 _____

42 *If access to the parcel is not traversable by emergency*
43 *vehicles, the county and emergency service providers may not be*
44 *held liable for any damages resulting from the inability to*
45 *traverse the access to provide needed services.*

- 1 5. The road(s) is/are ☐ publicly maintained ☐ privately
2 maintained ☐ not maintained ☐ not applicable. If
3 applicable, there ☐ is ☐ is not a recorded road
4 maintenance agreement.
5 *If the roads are not publicly maintained, it is the*
6 *responsibility of the property owner(s) to maintain the roads*
7 *and roads that are not improved to county standards and accepted*
8 *for maintenance are not the county's responsibility.*
- 9 6. A portion or all of the property ☐ is ☐ is not
10 located in a FEMA designated regulatory floodplain. If the
11 property is in a floodplain, it may be subject to floodplain
12 regulation.
- 13 7. The property ☐ is ☐ is not subject to ☐ fissures or
14 ☐ expansive soils. ☐ unknown
15 Explain: _____
16 _____
17 _____
- 18 8. The following services are currently provided to the property:
19 ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single
20 party telephone ☐ cable television services.
- 21 9. The property ☐ is ☐ is not served by a water supply
22 that requires the transportation of water to the property.
- 23 10. The property is served by ☐ a private water company ☐ a
24 municipal water provider ☐ a private well ☐ a shared well
25 ☐ no well. If served by a shared well, the shared well ☐ is
26 ☐ is not a public water system, as defined by the safe
27 drinking water act (42 United States Code § 300f).
28 *Notice to buyer: If the property is served by a well, a private*
29 *water company or a municipal water provider the Arizona*
30 *department of water resources may not have made a water supply*
31 *determination. For more information about water supply, contact*
32 *the water provider.*
- 33 11. The property ☐ does have ☐ does not have an on-site
34 wastewater treatment facility (i.e., standard septic or
35 alternative system to treat and dispose of wastewater).
36 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
37 require installation of an on-site wastewater treatment
38 facility; b) The on-site wastewater treatment facility ☐ has
39 ☐ has not been inspected.
- 40 12. The property ☐ has been ☐ has not been subject to a
41 percolation test. ☐ unknown.
- 42 13. The property ☐ does ☐ does not meet the minimum
43 applicable county zoning requirements of the applicable zoning
44 designation.

1 14. The sale of the property ☐ does ☐ does not . . . meet the
2 requirements of A.R.S. § ~~11-809~~ 11-831 regarding land divisions.
3 If those requirements are not met, the property owner may not be
4 able to obtain a building permit. The seller or property owner
5 shall disclose each of the deficiencies to the buyer.

6 Explain: _____
7 _____
8 _____

9 15. The property ☐ is ☐ is not located in the clear zone of a
10 military airport or ancillary military facility, as defined in
11 A.R.S. § 28-8461. (Maps are available at the state real estate
12 department's website.)

13 16. The property ☐ is ☐ is not located in the high noise or
14 accident potential zone of a military airport or ancillary
15 military facility, as defined in A.R.S. § 28-8461. (Maps are
16 available at the state real estate department's website.)

17 17. Notice: If the property is located within the territory in the
18 vicinity of a military airport or ancillary military facility, the
19 property is required to comply with sound attenuation standards as
20 prescribed by A.R.S. § 28-8482. (Maps are available at the state
21 real estate department's website.)

22 18. The property ☐ is ☐ is not located under military restricted
23 airspace. ☐ unknown. (Maps are available at the state real
24 estate department's website.)

25 19. The property ☐ is ☐ is not located in a military electronics
26 range as defined in A.R.S. sections 9-500.28 and ~~11-812~~ 11-818.
27 ☐ unknown. (Maps are available at the state real estate
28 department's website.)

29 20. Use of the property ☐ is ☐ is not limited in any way
30 relating to an encumbrance of title due to a lis pendens, a court
31 order or a state real estate department order or a pending legal
32 action. If the use of the property is limited due to an
33 encumbrance of title, the seller or property owner shall disclose
34 the limitations to the buyer.

35 Explain: _____
36 _____
37 _____

38
39 This affidavit of disclosure supersedes any previously recorded
40 affidavit of disclosure.

41 I certify under penalty of perjury that the information
42 contained in this affidavit is true, complete and correct
43 according to my best belief and knowledge.

1 Dated this ____ (date) ____ day of ____ (year) ____ by:
2 Seller's name (print): _____ Signature: _____
3 Seller's name (print): _____ Signature: _____
4 State of Arizona)
5) ss.
6 County of _____)
7 Subscribed and sworn before me this ____ (date) ____ day of
8 ____ (year) ____, by _____.

9 _____
10 Notary public
11 My commission expires:
12 ____ (date) ____

13 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
14 of disclosure this ____ (date) ____ day of ____ (year) ____
15 Buyer's name (print): _____ Signature: _____
16 Buyer's name (print): _____ Signature: _____

17 G. For the purposes of this section, seller and subsequent seller do
18 not include a trustee of a deed of trust who is selling property by a
19 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
20 selling property by execution sale pursuant to title 12, chapter 9 and
21 title 33, chapter 6. If the seller is a trustee of a subdivision trust as
22 defined in section 6-801, the disclosure affidavit required by this section
23 shall be provided by the beneficiary of the subdivision trust.

24 Sec. 23. Section 34-201, Arizona Revised Statutes, as amended by Laws
25 2009, chapter 101, section 6, is amended to read:

26 34-201. Notice of intention to receive bids and enter contract;
27 procedure; doing work without advertising for bids;
28 county compliance

29 A. Except as provided in subsections B through G and L of this
30 section, every agent, on acceptance and approval of the working drawings and
31 specifications, shall publish a notice to contractors of intention to receive
32 bids and contract for the proposed work. This notice shall be published by
33 advertising in a newspaper of general circulation in the county in which the
34 agent is located for two consecutive publications if it is a weekly newspaper
35 or for two publications that are at least six but no more than ten days apart
36 if it is a daily newspaper. The notice shall state:

37 1. The nature of the work required, the type, purpose and location of
38 the proposed building and where the plans, specifications and full
39 information as to the proposed work may be obtained.

40 2. That contractors desiring to submit proposals may obtain copies of
41 full or partial sets of plans and specifications for estimate on request or
42 by appointment. The return of such plans and specifications shall be
43 guaranteed by a deposit of a designated amount which shall be refunded on
44 return of the plans and specifications in good order.

1 3. That every proposal shall be accompanied by a certified check,
2 cashier's check or surety bond for ten per cent of the amount of the bid
3 included in the proposal as a guarantee that the contractor will enter into a
4 contract to perform the proposal in accordance with the plans and
5 specifications. Notwithstanding any other statute, the surety bond shall be
6 executed solely by a surety company or companies holding a certificate of
7 authority to transact surety business in this state issued by the director of
8 the department of insurance pursuant to title 20, chapter 2, article 1. The
9 surety bond shall not be executed by an individual surety or sureties, even
10 if the requirements of section 7-101 are satisfied. The certified check,
11 cashier's check or surety bond shall be returned to the contractors whose
12 proposals are not accepted, and to the successful contractor on the execution
13 of a satisfactory bond and contract as provided in this article. The
14 conditions and provisions of the surety bid bond regarding the surety's
15 obligations shall follow the following form:

16 Now, therefore, if the obligee accepts the proposal of the
17 principal and the principal enters into a contract with the
18 obligee in accordance with the terms of the proposal and gives
19 the bonds and certificates of insurance as specified in the
20 standard specifications with good and sufficient surety for the
21 faithful performance of the contract and for the prompt payment
22 of labor and materials furnished in the prosecution of the
23 contract, or in the event of the failure of the principal to
24 enter into the contract and give the bonds and certificates of
25 insurance, if the principal pays to the obligee the difference
26 not to exceed the penalty of the bond between the amount
27 specified in the proposal and such larger amount for which the
28 obligee may in good faith contract with another party to perform
29 the work covered by the proposal then this obligation is void.
30 Otherwise it remains in full force and effect provided, however,
31 that this bond is executed pursuant to the provisions of section
32 34-201, Arizona Revised Statutes, and all liabilities on this
33 bond shall be determined in accordance with the provisions of
34 the section to the extent as if it were copied at length herein.

35 4. That the right is reserved to reject any or all proposals or to
36 withhold the award for any reason the agent determines.

37 B. If the agent believes that any construction, building addition or
38 alteration contemplated at a public institution can be advantageously done by
39 the inmates of the public institution and regularly employed help, the agent
40 may cause the work to be done without advertising for bids.

41 C. Any building, structure, addition or alteration may be constructed
42 either with or without the use of the agent's regularly employed personnel
43 without advertising for bids, provided that the total cost of the work,
44 excluding materials and equipment previously acquired by bid, does not
45 exceed:

1 1. In fiscal year 1994-1995, fourteen thousand dollars.

2 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
3 amount provided in paragraph 1 of this subsection adjusted by the annual
4 percentage change in the GDP price deflator as defined in section 41-563.

5 D. Notwithstanding subsection C of this section, any street, road,
6 bridge, water or sewer work, other than a water or sewer treatment plant or
7 building, may be constructed either with or without the use of the agent's
8 regularly employed personnel without advertising for bids, provided that the
9 total cost of the work does not exceed:

10 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

11 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
12 amount provided in paragraph 1 of this subsection adjusted by the annual
13 percentage change in the GDP price deflator as defined in section 41-563.

14 E. For the purposes of subsection D of this section, the total cost of
15 water or sewer work does not include services provided by volunteers or
16 donations made for the water or sewer project.

17 F. Notwithstanding this section, an agent may:

18 1. Construct, reconstruct, install or repair a natural gas or electric
19 utility and distribution system, owned or operated by such agent, with
20 regularly employed personnel of the agent without advertising for bids,
21 unless otherwise prohibited by charter or ordinance.

22 2. Construct recreational projects, including trails, playgrounds,
23 ballparks and other similar facilities and excluding buildings, structures,
24 building additions and alterations to buildings, structures and building
25 additions, with volunteer workers or workers provided by a nonprofit
26 organization without advertising for bids for labor and materials, provided
27 that the total cost of the work does not exceed:

28 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

29 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the
30 amount provided in subdivision (a) adjusted by the annual percentage change
31 in the GDP price deflator as defined in section 41-563.

32 G. A contribution by an agent for the financing of public
33 infrastructure made pursuant to a development agreement is exempt from this
34 section if such contribution for any single development does not exceed:

35 1. In fiscal year 1994-1995, one hundred thousand dollars.

36 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
37 amount provided in paragraph 1 of this subsection adjusted by the annual
38 percentage change in the GDP price deflator as defined in section 41-563.

39 H. In addition to other state or local requirements relating to the
40 publication of bids, each agent shall provide at least one set of all plans
41 and specifications to any construction news reporting service that files an
42 annual request with the agent. For the purposes of this subsection,
43 "construction news reporting service" means a service that researches,
44 gathers and disseminates news and reports either in print or electronically,
45 on at least a weekly basis for building projects, construction bids, the

1 purchasing of materials, supplies or services and other construction bidding
2 or planned activity to the allied construction industry. The allied
3 construction industry includes both general and specialty contractors,
4 builders, material and service suppliers, architects and engineers, owners,
5 developers and government agencies.

6 I. Any construction by a county under this section shall comply with
7 the uniform accounting system prescribed for counties by the auditor general
8 under section 41-1279.21. Any construction by a city or town under this
9 section shall comply with generally accepted accounting principles.

10 J. Any construction, building addition or alteration project that is
11 financed by monies of this state or its political subdivisions shall not use
12 endangered wood species unless an exemption is granted by the director of the
13 department of administration. The director shall only grant an exemption if
14 the use of endangered wood species is deemed necessary for historical
15 restoration or to repair existing facilities and the use of any substitute
16 material is not practical. Any lease-purchase agreement entered into by this
17 state or its political subdivisions for construction shall specify that no
18 endangered wood species may be used in the construction unless an exemption
19 is granted by the director. For the purposes of this subsection, "endangered
20 wood species" includes those listed in appendix I of the convention on
21 international trade in endangered species of wild flora and fauna.

22 K. All bonds given by a contractor and surety pursuant to this
23 article, regardless of their actual form, will be deemed by law to be the
24 form required and set forth in this article and no other.

25 L. Any building, structure, addition or alteration may be constructed
26 without complying with this article if the construction, including
27 construction of buildings or structures on public or private property, is
28 required as a condition of development of private property and is authorized
29 by section 9-463.01 or ~~11-806.01~~ 11-822. For the purposes of this
30 subsection, building does not include police, fire, school, library or other
31 public buildings.

32 M. Notwithstanding section 34-221, any agent may enter into a
33 guaranteed energy cost savings contract with a qualified provider for the
34 purchase of energy cost savings measures without complying with this article
35 and may procure a guaranteed energy cost savings contract through the
36 competitive sealed proposal process prescribed in title 41, chapter 23 or any
37 similar competitive proposal process adopted by the agent.

38 Sec. 24. Section 34-201, Arizona Revised Statutes, as amended by
39 section 23 of this act, is amended to read:

40 34-201. Notice of intention to receive bids and enter contract;
41 procedure; doing work without advertising for bids;
42 county compliance

43 A. Except as provided in subsections B through G and L of this
44 section, every agent, on acceptance and approval of the working drawings and
45 specifications, shall publish a notice to contractors of intention to receive

1 bids and contract for the proposed work. This notice shall be published by
2 advertising in a newspaper of general circulation in the county in which the
3 agent is located for two consecutive publications if it is a weekly newspaper
4 or for two publications that are at least six but no more than ten days apart
5 if it is a daily newspaper. The notice shall state:

6 1. The nature of the work required, the type, purpose and location of
7 the proposed building and where the plans, specifications and full
8 information as to the proposed work may be obtained.

9 2. That contractors desiring to submit proposals may obtain copies of
10 full or partial sets of plans and specifications for estimate on request or
11 by appointment. The return of such plans and specifications shall be
12 guaranteed by a deposit of a designated amount which shall be refunded on
13 return of the plans and specifications in good order.

14 3. That every proposal shall be accompanied by a certified check,
15 cashier's check or surety bond for ten per cent of the amount of the bid
16 included in the proposal as a guarantee that the contractor will enter into a
17 contract to perform the proposal in accordance with the plans and
18 specifications. Notwithstanding any other statute, the surety bond shall be
19 executed solely by a surety company or companies holding a certificate of
20 authority to transact surety business in this state issued by the director of
21 the department of insurance pursuant to title 20, chapter 2, article 1. The
22 surety bond shall not be executed by an individual surety or sureties, even
23 if the requirements of section 7-101 are satisfied. The certified check,
24 cashier's check or surety bond shall be returned to the contractors whose
25 proposals are not accepted, and to the successful contractor on the execution
26 of a satisfactory bond and contract as provided in this article. The
27 conditions and provisions of the surety bid bond regarding the surety's
28 obligations shall follow the following form:

29 Now, therefore, if the obligee accepts the proposal of the
30 principal and the principal enters into a contract with the
31 obligee in accordance with the terms of the proposal and gives
32 the bonds and certificates of insurance as specified in the
33 standard specifications with good and sufficient surety for the
34 faithful performance of the contract and for the prompt payment
35 of labor and materials furnished in the prosecution of the
36 contract, or in the event of the failure of the principal to
37 enter into the contract and give the bonds and certificates of
38 insurance, if the principal pays to the obligee the difference
39 not to exceed the penalty of the bond between the amount
40 specified in the proposal and such larger amount for which the
41 obligee may in good faith contract with another party to perform
42 the work covered by the proposal then this obligation is void.
43 Otherwise it remains in full force and effect provided, however,
44 that this bond is executed pursuant to the provisions of section
45 34-201, Arizona Revised Statutes, and all liabilities on this

1 bond shall be determined in accordance with the provisions of
2 the section to the extent as if it were copied at length herein.

3 4. That the right is reserved to reject any or all proposals or to
4 withhold the award for any reason the agent determines.

5 B. If the agent believes that any construction, building addition or
6 alteration contemplated at a public institution can be advantageously done by
7 the inmates of the public institution and regularly employed help, the agent
8 may cause the work to be done without advertising for bids.

9 C. Any building, structure, addition or alteration may be constructed
10 either with or without the use of the agent's regularly employed personnel
11 without advertising for bids, provided that the total cost of the work,
12 excluding materials and equipment previously acquired by bid, does not
13 exceed:

14 1. In fiscal year 1994-1995, fourteen thousand dollars.

15 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
16 amount provided in paragraph 1 of this subsection adjusted by the annual
17 percentage change in the GDP price deflator as defined in section 41-563.

18 D. Notwithstanding subsection C of this section, any street, road,
19 bridge, water or sewer work, other than a water or sewer treatment plant or
20 building, may be constructed either with or without the use of the agent's
21 regularly employed personnel without advertising for bids, provided that the
22 total cost of the work does not exceed:

23 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

24 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
25 amount provided in paragraph 1 of this subsection adjusted by the annual
26 percentage change in the GDP price deflator as defined in section 41-563.

27 E. For the purposes of subsection D of this section, the total cost of
28 water or sewer work does not include services provided by volunteers or
29 donations made for the water or sewer project.

30 F. Notwithstanding this section, an agent may:

31 1. Construct, reconstruct, install or repair a natural gas or electric
32 utility and distribution system, owned or operated by such agent, with
33 regularly employed personnel of the agent without advertising for bids,
34 unless otherwise prohibited by charter or ordinance.

35 2. Construct recreational projects, including trails, playgrounds,
36 ballparks and other similar facilities and excluding buildings, structures,
37 building additions and alterations to buildings, structures and building
38 additions, with volunteer workers or workers provided by a nonprofit
39 organization without advertising for bids for labor and materials, provided
40 that the total cost of the work does not exceed:

41 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

42 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the
43 amount provided in subdivision (a) adjusted by the annual percentage change
44 in the GDP price deflator as defined in section 41-563.

1 G. A contribution by an agent for the financing of public
2 infrastructure made pursuant to a development agreement is exempt from this
3 section if such contribution for any single development does not exceed:

4 1. In fiscal year 1994-1995, one hundred thousand dollars.

5 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
6 amount provided in paragraph 1 of this subsection adjusted by the annual
7 percentage change in the GDP price deflator as defined in section 41-563.

8 H. In addition to other state or local requirements relating to the
9 publication of bids, each agent shall provide at least one set of all plans
10 and specifications to any construction news reporting service that files an
11 annual request with the agent. For the purposes of this subsection,
12 "construction news reporting service" means a service that researches,
13 gathers and disseminates news and reports either in print or electronically,
14 on at least a weekly basis for building projects, construction bids, the
15 purchasing of materials, supplies or services and other construction bidding
16 or planned activity to the allied construction industry. The allied
17 construction industry includes both general and specialty contractors,
18 builders, material and service suppliers, architects and engineers, owners,
19 developers and government agencies.

20 I. Any construction by a county under this section shall comply with
21 the uniform accounting system prescribed for counties by the auditor general
22 under section 41-1279.21. Any construction by a city or town under this
23 section shall comply with generally accepted accounting principles.

24 J. Any construction, building addition or alteration project that is
25 financed by monies of this state or its political subdivisions shall not use
26 endangered wood species unless an exemption is granted by the director of the
27 department of administration. The director shall only grant an exemption if
28 the use of endangered wood species is deemed necessary for historical
29 restoration or to repair existing facilities and the use of any substitute
30 material is not practical. Any lease-purchase agreement entered into by this
31 state or its political subdivisions for construction shall specify that no
32 endangered wood species may be used in the construction unless an exemption
33 is granted by the director. For the purposes of this subsection, "endangered
34 wood species" includes those listed in appendix I of the convention on
35 international trade in endangered species of wild flora and fauna.

36 K. All bonds given by a contractor and surety pursuant to this
37 article, regardless of their actual form, will be deemed by law to be the
38 form required and set forth in this article and no other.

39 L. Any building, structure, addition or alteration may be constructed
40 without complying with this article if the construction, including
41 construction of buildings or structures on public or private property, is
42 required as a condition of development of private property and is authorized
43 by section 9-463.01 or 11-822. For the purposes of this subsection, building
44 does not include police, fire, school, library or other public buildings.

1 M. Notwithstanding section 34-221, any agent may enter into a
2 guaranteed energy cost savings contract with a qualified provider, AS THOSE
3 TERMS ARE DEFINED IN SECTION 15-213.01, for the purchase of energy cost
4 savings measures without complying with this article and may procure a
5 guaranteed energy cost savings contract through the competitive sealed
6 proposal process prescribed in title 41, chapter 23, ARTICLE 3 or any similar
7 competitive proposal process adopted by the agent AS LONG AS THE AGENT
8 FOLLOWS ANY ADDITIONAL REQUIREMENTS SET FORTH IN SECTION 15-213.01.

9 Sec. 25. Repeal

10 Section 34-201, Arizona Revised Statutes, as amended by Laws 2009,
11 chapter 101, section 7, is repealed.

12 Sec. 26. Section 34-610, Arizona Revised Statutes, is amended to read:

13 34-610. Accounting standards; statutory applicability

14 A. Any construction by a county pursuant to this chapter shall comply
15 with the uniform accounting system prescribed for counties by the auditor
16 general pursuant to section 41-1279.21. Any construction by a city or a town
17 pursuant to this chapter shall comply with generally accepted accounting
18 principles.

19 B. Any building, structure, addition or alteration may be constructed
20 without complying with this chapter if the construction, including
21 construction of buildings or structures on public or private property, is
22 required as a condition of development of private property and is authorized
23 by section 9-463.01 or ~~11-806.01~~ 11-822. For the purposes of this
24 subsection, building does not include police, fire, school, library or other
25 public buildings.

26 C. Section 34-104, section 34-201, subsections A through I, K and L
27 and sections 34-202, 34-203, 34-221, 34-222, 34-223 and 34-224 do not apply
28 to procurement by an agent of construction-manager-at-risk construction
29 services, design-build construction services and job-order-contracting
30 construction services.

31 D. Section 34-201, subsections J and M and sections 34-225 and 34-226
32 apply to procurement by an agent of construction-manager-at-risk construction
33 services, design-build construction services and job-order-contracting
34 construction services.

35 Sec. 27. Section 37-132, Arizona Revised Statutes, is amended to read:

36 37-132. Powers and duties

37 A. The commissioner shall:

38 1. Exercise and perform all powers and duties vested in or imposed
39 upon the department, and prescribe such rules as are necessary to discharge
40 those duties.

41 2. Exercise the powers of surveyor-general except for the powers of
42 the surveyor-general exercised by the treasurer as a member of the selection
43 board pursuant to section 37-202.

1 3. Make long-range plans for the future use of state lands in
2 cooperation with other state agencies, local planning authorities and
3 political subdivisions.

4 4. Promote the infill and orderly development of state lands in areas
5 beneficial to the trust and prevent urban sprawl or leapfrog development on
6 state lands.

7 5. Classify and appraise all state lands, together with the
8 improvements on state lands, for the purpose of sale, lease or grant of
9 rights-of-way. The commissioner may impose such conditions and covenants and
10 make such reservations in the sale of state lands as the commissioner deems
11 to be in the best interest of the state trust. The provisions of this
12 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,
13 article 10 and, except as provided in section 41-1092.08, subsection H, are
14 subject to judicial review pursuant to title 12, chapter 7, article 6.

15 6. Have authority to lease for grazing, agricultural, homesite or
16 other purposes, except commercial, all land owned or held in trust by the
17 state.

18 7. Have authority to lease for commercial purposes and sell all land
19 owned or held in trust by the state, but any such lease for commercial
20 purposes or any such sale shall first be approved by the board of appeals.

21 8. Except as otherwise provided, determine all disputes, grievances or
22 other questions pertaining to the administration of state lands.

23 9. Appoint deputies and other assistants and employees necessary to
24 perform the duties of the department, assign their duties, and require of
25 them such surety bonds as the commissioner deems proper. The compensation of
26 the deputy, assistants or employees shall be as determined pursuant to
27 section 38-611.

28 10. Make a written report to the governor annually, not later than
29 September 1, disclosing in detail the activities of the department for the
30 preceding fiscal year, and publish it for distribution. The report shall
31 include an evaluation of auctions of state land leases held during the
32 preceding fiscal year considering the advantages and disadvantages to the
33 state trust of the existence and exercise of preferred rights to lease
34 reclassified state land.

35 11. Withdraw state land from surface or subsurface sales or lease
36 applications if the commissioner deems it to be in the best interest of the
37 trust. This closure of state lands to new applications for sale or lease
38 does not affect the rights ~~which~~ THAT existing lessees have under law for
39 renewal of their leases and reimbursement for improvements.

40 B. The commissioner may:

41 1. Take evidence relating to, and may require of the various county
42 officers information on, any matter that the commissioner has the power
43 to investigate or determine.

44 2. Under such rules as the commissioner adopts, use private real
45 estate brokers to assist in any sale or long-term lease of state land and

1 pay, from fees collected under section 37-108, subsection A, paragraph 10,
2 subdivision (a), a commission to a broker that is licensed pursuant to title
3 32, chapter 20 and that provides the purchaser or lessee at auction. The
4 purchaser or lessee at auction is not eligible to receive a commission
5 pursuant to this subsection. A commission shall not be paid on a sale or a
6 long-term lease if the purchaser or lessee is another governmental agency.

7 3. Require a permittee, lessee or grantee to post a surety bond or any
8 form of collateral deemed sufficient by the commissioner for performance or
9 restoration purposes. The commissioner shall use the proceeds of a bond or
10 collateral only for the purposes determined at the time the bond or
11 collateral is posted. For agricultural lessees, the commissioner may require
12 collateral as follows:

13 (a) As security for payment of the annual assessments levied by the
14 irrigation district in which the state land is located if the lessee has a
15 history of late payments or defaults. The amount of the collateral required
16 shall not exceed the annual assessment levied by the irrigation district.

17 (b) As security for payment of rent, if an extension of time for
18 payment is requested or if the lessee has a history of late payments of rent.
19 The collateral shall be submitted at the time any extension of time for
20 payment is requested. The amount of the collateral required shall not exceed
21 the annual amount of rent for the land.

22 (c) A surety bond shall be required only if the commissioner
23 determines that other forms of collateral are insufficient.

24 4. Withhold market and economic analyses, preliminary engineering,
25 site and area studies and appraisals that are collected during the urban
26 planning process from public viewing before they are submitted to local
27 planning and zoning authorities.

28 5. Withhold from public inspection proprietary information received
29 during lease negotiations. The proprietary information shall be released to
30 public inspection unless the release may harm the competitive position of the
31 applicant and the information could not have been obtained by other
32 legitimate means.

33 6. Issue permits for short-term use of state land for specific
34 purposes as prescribed by rule.

35 7. Contract with a third party to sell recreational permits. A third
36 party under contract pursuant to this paragraph may assess a surcharge for
37 its services as provided in the contract, in addition to the fees prescribed
38 by section 37-108.

39 8. Close urban lands to specific uses as prescribed by rule if
40 necessary for dust abatement, to reduce a risk from hazardous environmental
41 conditions that pose a risk to human health or safety or for remediation
42 purposes.

43 9. Notwithstanding subsection A, paragraph 4 of this section,
44 authorize, in the best interest of the trust, the extension of public
45 services and facilities either:

1 (a) That are necessary to implement plans of the local governing body,
2 including plans adopted or amended pursuant to section 9-461.06 or ~~11-824~~
3 11-805.

4 (b) Across state lands that are either:

5 (i) Classified as suitable for conservation pursuant to section
6 37-312.

7 (ii) Sold or leased at auction for conservation purposes.

8 C. The commissioner or any deputy or employee of the department shall
9 not have, own or acquire, directly or indirectly, any state lands or the
10 products on any state lands, any interest in or to such lands or products, or
11 improvements on leased state lands, or be interested in any state irrigation
12 project affecting state lands.

13 Sec. 28. Section 37-331.03, Arizona Revised Statutes, is amended to
14 read:

15 37-331.03. Conceptual urban state trust land use plans; five
16 year state trust land disposition plans;
17 definitions

18 A. The commissioner shall create conceptual land use plans for all
19 urban state trust land in this state and other state trust lands the
20 commissioner considers to be appropriate. The commissioner shall:

21 1. Prioritize the creation of conceptual plans to the extent possible
22 to:

23 (a) Correlate with the rate of population growth in the urban areas in
24 this state.

25 (b) Coincide with the production of municipal general plans under
26 title 9, chapter 4, article 6 and county plans under title 11, chapter 6,
27 article ~~2~~ 1.

28 2. Revise and update each plan at least every ten years.

29 3. Consult with the city, town or county in which the land is located
30 and with any regional planning organization regarding integrating the
31 conceptual plan into the general land use plan of the city, town or county.

32 4. Submit each plan, and revision of the plan, to the urban land
33 planning oversight committee for review.

34 B. On approval of the conceptual land use plan by the commissioner
35 under this section, the conceptual plan is considered to be a state general
36 plan for purposes of this article.

37 C. The commissioner may create the conceptual land use plans under
38 subsection A of this section by any of the following methods:

39 1. Using department staff or private consultants.

40 2. Entering into participation contracts pursuant to section 37-239.

41 3. Issuing planning permits for urban lands pursuant to section
42 37-338.

43 4. Entering into planning contracts for urban lands or other state
44 trust lands the commissioner considers to be appropriate, including
45 compensation as provided by section 37-338, subsection D.

1 D. The commissioner shall create five year disposition plans for all
2 state trust land in this state, based at a minimum on market demand,
3 anticipated transportation and infrastructure availability. The commissioner
4 shall:

5 1. Review and update each plan each year as may be necessary.
6 2. Consult with the city, town or county in which the land is located
7 and with any regional planning organization.

8 3. Submit each plan and revision to the urban land planning oversight
9 committee to ensure conformity with the conceptual plan under subsection A.

10 E. For the purposes of this section:

11 1. "Conceptual land use plan" means a plan that is developed for urban
12 state trust land and other state trust lands the commissioner considers to be
13 appropriate and that identifies:

14 (a) Appropriate land uses, including commercial, industrial,
15 residential and open space uses.

16 (b) Transportation corridors and infrastructure requirements.

17 (c) All natural and artificial constraints and opportunities
18 associated with the land.

19 2. "Five year disposition plan" means a plan that identifies the land
20 projected to be sold, leased, reclassified for conservation purposes, master
21 planned or zoned during the next five years.

22 Sec. 29. Section 40-360.53, Arizona Revised Statutes, is amended to
23 read:

24 40-360.53. Utility facilities included in municipal and county
25 plans

26 A. If a utility develops and delivers a facilities FACILITY plan to a
27 municipality or a county, the municipality or county, with respect to the
28 facilities located in its corporate limits or planning area, shall include
29 the location and nature of the planned facilities in the municipality general
30 plan under section 9-461.05 or the county comprehensive plan under section
31 ~~11-821~~ 11-804.

32 B. The utility shall update each facility plan provided to a
33 municipality or a county ~~on a periodic basis, but~~ at least every two years.

34 Sec. 30. Section 41-1512.02, Arizona Revised Statutes, is amended to
35 read:

36 41-1512.02. Appropriations; purposes; exemption

37 A. The sum of \$75,000 and 1 FTE is appropriated from the state general
38 fund in fiscal years 2004-2005 and 2005-2006 and each year thereafter to the
39 department of commerce.

40 B. The sum of \$100,000 is appropriated from the state general fund in
41 fiscal years 2004-2005 and 2005-2006 and each year thereafter to the attorney
42 general's office for implementation of ~~sections~~ SECTION 9-461.06, ~~11-806,~~
43 ~~11-824~~ TITLE 11, CHAPTER 6, ARTICLE 1 and SECTION 28-8481.

44 C. For fiscal years 2004-2005 and 2005-2006 and each year thereafter,
45 the sum of \$4,825,000 is appropriated from the state general fund to the

1 military installation fund established by, and for the purposes prescribed
2 by, section 41-1512.01.

3 D. The appropriations made in subsections A, B and C of this section
4 are exempt from the provisions of section 35-190 relating to lapsing of
5 appropriations.

6 Sec. 31. Section 41-1519, Arizona Revised Statutes, is amended to
7 read:

8 41-1519. Small community planning assistance program

9 Subject to legislative appropriation, the department shall establish a
10 small community planning assistance program. The department shall provide
11 grants and technical assistance to the following entities:

12 1. Any city or town with a population of more than two thousand five
13 hundred persons but less than fifteen thousand persons for the purpose of
14 complying with the requirements of section 9-461.05, subsection D.

15 2. Any county with a population of less than one hundred thousand
16 persons for the purpose of complying with planning ~~requirement~~ REQUIREMENTS
17 under title 11, chapter 6, article 2- 1.

18 Sec. 32. Section 45-108, Arizona Revised Statutes, is amended to read:

19 45-108. Evaluation of subdivision water supply; definition

20 A. In areas outside of active management areas established pursuant to
21 chapter 2, article 2 of this title, the developer of a proposed subdivision
22 including dry lot subdivisions, regardless of subdivided lot size, prior to
23 recordation of the plat, shall submit plans for the water supply for the
24 subdivision and demonstrate the adequacy of the water supply to meet the
25 needs projected by the developer to the director. The director shall
26 evaluate the plans and issue a report on the plans.

27 B. The director shall evaluate the proposed source of water for the
28 subdivision to determine whether there is an adequate water supply for the
29 subdivision, and shall forward a copy of the director's report to the state
30 real estate commissioner and the city, town or county responsible for
31 platting the subdivision.

32 C. The director may designate cities, towns and private water
33 companies as having an adequate water supply by reporting that designation to
34 the water department of the city or town or private water company and the
35 state real estate commissioner.

36 D. As an alternative to designation under subsection C OF THIS
37 SECTION, the director may designate a city or town that has entered into a
38 contract with the United States secretary of the interior or a county water
39 authority established pursuant to chapter 13 of this title for permanent
40 supplies of Colorado river water for municipal and industrial use as having
41 an adequate water supply if all of the following apply:

42 1. The city or town has entered into a contract with each private
43 water company that serves water within the city or town to provide Colorado
44 river water to those private water companies.

1 2. The Colorado river water for which the city or town has contracted
2 is sufficient together with other water supplies available to the city or
3 town and the private water companies that serve water within that city or
4 town to provide an adequate supply of water for the city or town.

5 3. The director finds that new subdivisions within the city or town
6 will be served primarily with Colorado river water by the city or town or one
7 of the private water companies that serve water within that city or town.

8 E. The director shall not require a developer to submit plans for the
9 water supply pursuant to subsection A OF THIS SECTION if either:

10 1. Both of the following apply:

11 (a) The developer has obtained a written commitment of water service
12 from cities, towns or private water companies that have been designated as
13 having an adequate water supply.

14 (b) That city, town or private water company has been designated as
15 having an adequate water supply pursuant to subsection C OF THIS SECTION.

16 2. All of the following apply:

17 (a) The city or town has been designated as having an adequate water
18 supply pursuant to subsection D OF THIS SECTION.

19 (b) The developer has obtained a written commitment of water service
20 from the city or town or a private water company that serves water within
21 that city or town.

22 (c) The developer has obtained the written concurrence of the city or
23 town that has been designated.

24 F. The director may revoke a designation made pursuant to this section
25 when the director finds that the water supply may become inadequate.

26 G. The state of Arizona and the director or department shall not be
27 liable for any report, designation or evaluation prepared in good faith
28 pursuant to this section.

29 H. If the director receives written notice from the board of
30 supervisors of a county that it has adopted the provision authorized by
31 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the director shall give
32 written notice of the provision to the mayors of all cities and towns in the
33 county. A city or town that receives the notice shall comply with section
34 9-463.01, subsections J, K, L, M and N.

35 I. For the purposes of this section, "adequate water supply" means
36 both of the following:

37 1. Sufficient groundwater, surface water or effluent of adequate
38 quality will be continuously, legally and physically available to satisfy the
39 water needs of the proposed use for at least one hundred years.

40 2. The financial capability has been demonstrated to construct the
41 water facilities necessary to make the supply of water available for the
42 proposed use, including a delivery system and any storage facilities or
43 treatment works. The director may accept evidence of the construction
44 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to
45 satisfy this requirement.

1 Sec. 33. Section 45-108.01, Arizona Revised Statutes, is amended to
2 read:

3 45-108.01. Application for water report or designation of
4 adequate water supply; notice; objections;
5 hearing; appeals

6 A. On receipt of an application for a water report or an application
7 by a city, town or private water company to be designated as having an
8 adequate water supply under section 45-108, if the proposed use is in a
9 county that has adopted the provision authorized by section ~~11-806.01,~~
10 ~~subsection F 11-823,~~ SUBSECTION A or in a city or town that has enacted an
11 ordinance pursuant to section 9-463.01, subsection O, the director shall
12 publish notice of the application once each week for two consecutive weeks in
13 a newspaper of general circulation in the groundwater basin in which the
14 applicant proposes to use water. The first publication shall occur within
15 fifteen days after the application is determined or deemed to be
16 administratively complete. If the application is substantially modified
17 after notice of the application is given pursuant to this subsection, the
18 director shall give notice of the application as modified in the manner
19 prescribed by this subsection. The first publication of any subsequent
20 notice shall occur within fifteen days after the modified application is
21 determined or deemed to be administratively complete.

22 B. Notice pursuant to subsection a of this section shall state that
23 written objections to the application may be filed with the director by
24 residents and landowners within the groundwater basin within fifteen days
25 after the last publication of notice. An objection shall state the name and
26 mailing address of the objector and be signed by the objector, the objector's
27 agent or the objector's attorney. The grounds for objection are limited to
28 whether the application meets the criteria for determining an adequate water
29 supply set forth in section 45-108, subsection I. The objection shall
30 clearly set forth reasons why the application does not meet the criteria.

31 C. In appropriate cases, including cases in which a proper written
32 objection to the application has been filed, an administrative hearing may be
33 held before the director's decision on the application if the director deems
34 a hearing necessary. Thirty days before the date of the hearing, the
35 director shall give notice of the hearing to the applicant and to any person
36 who filed a proper written objection to the application. The hearing shall
37 be scheduled for at least sixty days but not more than ninety days after the
38 expiration of the time in which to file objections.

39 D. If the application is for a water report:

40 1. If the director determines that an adequate water supply exists for
41 the proposed use, the director shall issue a water report stating that the
42 water supply for the subdivision is adequate.

43 2. If the director determines that an adequate water supply does not
44 exist, the director shall issue a water report stating that the water supply
45 for the subdivision is inadequate.

1 E. If the application is for a designation of adequate water supply:
2 1. If the director determines that an adequate water supply exists for
3 the proposed use, the director shall approve the application.

4 2. If the director determines that an adequate water supply does not
5 exist, the director shall deny the application.

6 F. The applicant or a person who contested the application by filing a
7 proper objection pursuant to subsection B of this section may seek judicial
8 review of the final decision of the director as provided in section 45-114,
9 subsection B in the superior court.

10 G. Section 45-114, subsections A and B govern administrative
11 proceedings, rehearings or reviews and judicial reviews of final decisions of
12 the director under this section. If an administrative hearing is held, it
13 shall be conducted in the groundwater basin in which the use is located.

14 Sec. 34. Section 45-108.02, Arizona Revised Statutes, is amended to
15 read:

16 45-108.02. Exemption from adequate water supply requirements
17 for city, town or county based on substantial
18 capital investment; application; criteria;
19 expiration

20 A. If the director determines pursuant to section 45-108 that an
21 adequate water supply does not exist for a proposed subdivision and the
22 proposed subdivision is located in a city, town or county that requires a
23 determination of adequate water supply by the director as a condition of
24 approval of the plat pursuant to section 9-463.01, subsection J or O or
25 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the subdivider may
26 apply to the director for an exemption from the water adequacy requirement
27 pursuant to this section on a form prescribed by the director within one year
28 after the requirement first becomes effective. The director shall grant the
29 exemption if the subdivider demonstrates to the satisfaction of the director
30 that all of the following apply:

31 1. The subdivider has made substantial capital investment toward the
32 construction of the proposed subdivision before the date the water adequacy
33 requirement first became effective. For the purposes of this paragraph,
34 substantial capital investment may include construction costs, site
35 preparation costs, construction of off-site improvements and conversion or
36 remodeling costs for existing structures, as well as planning and design
37 costs associated with those items, but does not include the original cost of
38 acquiring the property.

39 2. The subdivider was not aware of the proposed water adequacy
40 requirement at the time the investment was made.

41 3. The proposed subdivision complied in all other respects with
42 existing state laws as of the date the water adequacy requirement became
43 effective.

44 B. If the director grants an exemption pursuant to subsection A of
45 this section:

1 1. The exemption expires five years after the date the exemption is
2 granted, unless before that date at least one parcel in the subdivision is
3 sold to a bona fide purchaser or the director extends the exemption pursuant
4 to paragraph 2 of this subsection.

5 2. The director may extend the period of the exemption for no more
6 than two successive five-year periods if the subdivider applies for an
7 extension before the exemption expires and demonstrates to the satisfaction
8 of the director that the subdivider has made material progress in developing
9 the subdivision, but that sales of parcels in the subdivision have been
10 delayed for reasons outside the control of the subdivider.

11 C. If an exemption granted under this section expires, any public
12 report issued for the subdivision by the state real estate commissioner
13 pursuant to section 32-2183 expires and the subdivider shall not sell any
14 lots in the subdivision unless both of the following apply:

15 1. The subdivider files with the state real estate commissioner a new
16 notice of intention to subdivide lands pursuant to section 32-2181 and
17 complies with section 32-2181, subsection F.

18 2. The state real estate commissioner issues a new public report for
19 the subdivision pursuant to section 32-2183.

20 D. Section 45-114, subsections A and B govern administrative
21 proceedings, rehearing or review and judicial review of final decisions of
22 the director under this section.

23 Sec. 35. Section 45-108.03, Arizona Revised Statutes, is amended to
24 read:

25 45-108.03. Exemption from adequate water supply requirements
26 for city, town or county based on an adequate
27 water supply within twenty years; criteria:
28 application

29 A. If a proposed subdivision is located in a city, town or county that
30 requires an adequate water supply determination by the director as a
31 condition of approval of the plat pursuant to section 9-463.01, subsection J
32 or 0 or section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the subdivider
33 may apply to the director for an exemption from the requirement pursuant to
34 this section on a form prescribed by the director. The director shall grant
35 the exemption if the subdivider demonstrates to the satisfaction of the
36 director that the subdivision will be served by a water supply project to
37 which both of the following apply:

38 1. The subdivider has demonstrated financial capability pursuant to
39 section 45-108, subsection I, but the water supply project will not be
40 capable of serving the subdivision with sufficient water to meet its demands
41 in a timely manner because of one of the following:

42 (a) The physical works for delivering water to the subdivision are not
43 complete but are under construction and will be completed within twenty
44 years.

1 (b) The subdivision will be served Colorado river water by a water
2 provider that does not currently have the legal right to serve the water to
3 the subdivision, but the water provider has an existing permanent contract
4 for the Colorado river water and will have the legal right to serve the water
5 to the subdivision within twenty years.

6 2. The subdivision will have an adequate water supply when the
7 construction of the physical works is completed or the water supply is
8 legally available to serve the subdivision, whichever applies, and the
9 interim water supply that will serve the subdivision meets all of the
10 criteria for an adequate water supply under section 45-108 except that the
11 interim water supply will not be available for one hundred years.

12 B. Section 45-114, subsections A and B govern administrative
13 proceedings, rehearing or review and judicial review of final decisions of
14 the director under this section.

15 Sec. 36. Section 45-108.04, Arizona Revised Statutes, is amended to
16 read:

17 45-108.04. Definition of adequate water supply; upper San Pedro
18 water district

19 For the purposes of section 45-108, if the upper San Pedro water
20 district is established under title 48, chapter 37 for proposed uses in the
21 district, "adequate water supply" means a water supply that complies with all
22 of the following:

23 1. Sufficient groundwater, surface water or effluent of adequate
24 quality will be continuously, legally and physically available to satisfy the
25 water needs of the proposed use for at least one hundred years.

26 2. The projected water use is consistent with the goal of the district
27 as set forth in section 48-6403, subsection B and the district's ability to
28 meet the measurable objectives for achieving the goal as included in the
29 district's most recent comprehensive plan, as determined by the director. If
30 the district is established, the director shall adopt rules containing
31 criteria for making determinations under this paragraph and shall consult
32 with the district board in developing the rules.

33 3. The financial capability has been demonstrated to construct the
34 water facilities necessary to make the supply of water available for the
35 proposed use, including a delivery system and any storage facilities or
36 treatment works. The director may accept evidence of the construction
37 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to
38 satisfy this requirement.

39 Sec. 37. Section 45-576, Arizona Revised Statutes, is amended to read:

40 45-576. Certificate of assured water supply; designated cities,
41 towns and private water companies; exemptions;
42 definition

43 A. A person who proposes to offer subdivided lands, as defined in
44 section 32-2101, for sale or lease in an active management area shall apply
45 for and obtain a certificate of assured water supply from the director prior

1 to presenting the plat for approval to the city, town or county in which the
2 land is located, where such is required, and prior to filing with the state
3 real estate commissioner a notice of intention to offer such lands for sale
4 or lease, pursuant to section 32-2181, unless the subdivider has obtained a
5 written commitment of water service for the subdivision from a city, town or
6 private water company designated as having an assured water supply pursuant
7 to this section.

8 B. A city, town or county may approve a subdivision plat only if the
9 subdivider has obtained a certificate of assured water supply from the
10 director or the subdivider has obtained a written commitment of water service
11 for the subdivision from a city, town or private water company designated as
12 having an assured water supply pursuant to this section. The city, town or
13 county shall note on the face of the approved plat that a certificate of
14 assured water supply has been submitted with the plat or that the subdivider
15 has obtained a written commitment of water service for the proposed
16 subdivision from a city, town or private water company designated as having
17 an assured water supply pursuant to this section.

18 C. The state real estate commissioner may issue a public report
19 authorizing the sale or lease of subdivided lands only on compliance with
20 either of the following:

21 1. The subdivider, owner or agent has obtained a certificate of
22 assured water supply from the director and has paid any activation fee
23 required under section 48-3772, subsection A, paragraph 7 and any
24 replenishment reserve fee required under section 48-3774.01, subsection A,
25 paragraph 2.

26 2. If the subdivider has obtained a written commitment of water
27 service for the lands from a city, town or private water company designated
28 as having an assured water supply pursuant to this section and the
29 subdivider, owner or agent has paid any activation fee required under section
30 48-3772, subsection A, paragraph 7.

31 D. The director shall designate private water companies in active
32 management areas that have an assured water supply. If a city or town
33 acquires a private water company that has contracted for central Arizona
34 project water, the city or town shall assume the private water company's
35 contract for central Arizona project water.

36 E. The director shall designate cities and towns in active management
37 areas where an assured water supply exists. If a city or town has entered
38 into a contract for central Arizona project water, the city or town is deemed
39 to continue to have an assured water supply until December 31, 1997.
40 Commencing on January 1, 1998, the determination that the city or town has an
41 assured water supply is subject to review by the director and the director
42 may determine that a city or town does not have an assured water supply.

43 F. The director shall notify the mayors of all cities and towns in
44 active management areas and the chairmen of the boards of supervisors of
45 counties in which active management areas are located of the cities, towns

1 and private water companies designated as having an assured water supply and
2 any modification of that designation within thirty days of the designation or
3 modification. If the service area of the city, town or private water company
4 has qualified as a member service area pursuant to title 48, chapter 22,
5 article 4, the director shall also notify the conservation district of the
6 designation or modification and shall report the projected average annual
7 replenishment obligation for the member service area based on the projected
8 and committed average annual demand for water within the service area during
9 the effective term of the designation or modification subject to any
10 limitation in an agreement between the conservation district and the city,
11 town or private water company. For each city, town or private water company
12 that qualified as a member service area under title 48, chapter 22 and was
13 designated as having an assured water supply before January 1, 2004, the
14 director shall report to the conservation district on or before January 1,
15 2005 the projected average annual replenishment obligation based on the
16 projected and committed average annual demand for water within the service
17 area during the effective term of the designation subject to any limitation
18 in an agreement between the conservation district and the city, town or
19 private water company. Persons proposing to offer subdivided lands served by
20 those designated cities, towns and private water companies for sale or lease
21 are exempt from applying for and obtaining a certificate of assured water
22 supply.

23 G. This section does not apply in the case of the sale of lands for
24 developments that are subject to a mineral extraction and processing permit
25 or an industrial use permit pursuant to sections 45-514 and 45-515.

26 H. The director shall adopt rules to carry out the purposes of this
27 section. On or before January 1, 2008, the rules shall provide for a
28 reduction in water demand for an application for a designation of assured
29 water supply or a certificate of assured water supply if a gray water reuse
30 system will be installed that meets the requirements of the rules adopted by
31 the department of environmental quality for gray water systems and if the
32 application is for a certificate of assured water supply, the land for which
33 the certificate is sought must qualify as a member land in a conservation
34 district pursuant to title 48, chapter 22, article 4. For the purposes of
35 this subsection, "gray water" has the same meaning prescribed in section
36 49-201.

37 I. If the director designates a municipal provider as having an
38 assured water supply under this section and the designation lapses or
39 otherwise terminates while the municipal provider's service area is a member
40 service area of a conservation district, the municipal provider or its
41 successor shall continue to comply with the consistency with management goal
42 requirements in the rules adopted by the director under subsection H of this
43 section as if the designation was still in effect with respect to the
44 municipal provider's designation uses. When determining compliance by the
45 municipal provider or its successor with the consistency with management goal

1 requirements in the rules, the director shall consider only water delivered
2 by the municipal provider or its successor to the municipal provider's
3 designation uses. A person is the successor of a municipal provider if the
4 person commences water service to uses that were previously designation uses
5 of the municipal provider. Any groundwater delivered by the municipal
6 provider or its successor to the municipal provider's designation uses in
7 excess of the amount allowed under the consistency with management goal
8 requirements in the rules shall be considered excess groundwater for purposes
9 of title 48, chapter 22. For the purposes of this subsection, "designation
10 uses" means all water uses served by a municipal provider on the date the
11 municipal provider's designation of assured water supply lapses or otherwise
12 terminates and all recorded lots within the municipal provider's service area
13 that were not being served by the municipal provider on that date but that
14 received final plat approval from a city, town or county on or before that
15 date. Designation uses do not include industrial uses served by an
16 irrigation district under section 45-497.

17 J. For the purposes of this section, "assured water supply" means all
18 of the following:

19 1. Sufficient groundwater, surface water or effluent of adequate
20 quality will be continuously available to satisfy the water needs of the
21 proposed use for at least one hundred years. Beginning January 1 of the
22 calendar year following the year in which a groundwater replenishment
23 district is required to submit its preliminary plan pursuant to section
24 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a
25 member of the district, "sufficient groundwater" for the purposes of this
26 paragraph means that the proposed groundwater withdrawals that the applicant
27 will cause over a period of one hundred years will be of adequate quality and
28 will not exceed, in combination with other withdrawals from land in the
29 replenishment district, a depth to water of one thousand feet or the depth of
30 the bottom of the aquifer, whichever is less. In determining depth to water
31 for the purposes of this paragraph, the director shall consider the
32 combination of:

33 (a) The existing rate of decline.

34 (b) The proposed withdrawals.

35 (c) The expected water requirements of all recorded lots that are not
36 yet served water and that are located in the service area of a municipal
37 provider.

38 2. The projected groundwater use is consistent with the management
39 plan and achievement of the management goal for the active management area.

40 3. The financial capability has been demonstrated to construct the
41 water facilities necessary to make the supply of water available for the
42 proposed use, including a delivery system and any storage facilities or
43 treatment works. The director may accept evidence of the construction
44 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to
45 satisfy this requirement.

1 Sec. 38. Section 48-3609.01, Arizona Revised Statutes, is amended to
2 read:

3 48-3609.01. Watercourse master plans; definition

4 A. If a district organized pursuant to this chapter has completed a
5 watercourse master plan which includes one or more watercourses, and if the
6 plan has been adopted by the board or by any other jurisdiction in that river
7 or drainage system, the board and the governing body of each jurisdiction may
8 adopt and shall enforce uniform rules for that river or drainage system
9 within the jurisdiction using criteria that meet or exceed criteria adopted
10 by the director of water resources pursuant to section 48-3605, subsection A.

11 B. During the preparation of a watercourse master plan, record owners
12 of real property in and immediately contiguous to the watercourse or
13 watercourses included in the planning shall be publicly notified by the board
14 or its agents so that the owners may have input to the planning process. In
15 addition, aggregate mining operations recommendation committees organized
16 pursuant to section ~~11-830~~ 11-812, subsection D, if any, shall be notified.

17 C. All watercourse master plans shall consider recharge techniques
18 including gabions, swales, dry wells, sand tanks and small dams.

19 D. This section does not apply to any city or town which has adopted a
20 resolution assuming floodplain management and regulation within its area of
21 jurisdiction as provided in section 48-3610 prior to July 1, 1990.

22 E. A district that has prepared a watercourse master plan for a river
23 may participate in the planning, establishment and operation of a
24 recreational corridor channelization district established pursuant to chapter
25 35 of this title.

26 F. For the purposes of this section, "watercourse master plan" means a
27 hydraulic plan for a watercourse that examines the cumulative impacts of
28 existing development and future encroachment in the floodplain and future
29 development in the watershed on potential flood damages and that establishes
30 technical criteria for subsequent development so as to minimize potential
31 flood damages for all flood events up to and including the one hundred-year
32 flood.

33 Sec. 39. Section 48-6414, Arizona Revised Statutes, is amended to
34 read:

35 48-6414. Inapplicability of other adequate water supply
36 provisions to proposed subdivisions in the district

37 Section 9-463.01, subsections J through Q, section ~~11-806.01,~~
38 ~~subsections F through I~~ 11-823, section 32-2181, subsection F, section
39 32-2183, subsection ~~F~~ H, section 32-2197.08, subsection D, section 45-108,
40 subsection H, section 45-108.01, section 45-108.02 and section 45-108.03 do
41 not apply to proposed subdivisions in the district.

1 Sec. 40. Section 49-1273, Arizona Revised Statutes, is amended to
2 read:

3 49-1273. Water supply development revolving fund; purposes;
4 limitation

5 A. Monies in the water supply development revolving fund may be used
6 for the following purposes:

7 1. Making water supply development loans to water providers in this
8 state under section 49-1274 for water supply development purposes.

9 2. Making loans or grants to water providers for the planning or
10 design of water supply development projects. A single grant shall not exceed
11 one hundred thousand dollars.

12 3. Purchasing or refinancing debt obligations of water providers at or
13 below market rate if the debt obligation was issued for a water supply
14 development purpose.

15 4. Providing financial assistance to water providers with bonding
16 authority to purchase insurance for local bond obligations incurred by them
17 for water supply development purposes.

18 5. Paying the costs to administer the fund.

19 6. Providing linked deposit guarantees through third party lenders by
20 depositing monies with the lender on the condition that the lender make a
21 loan on terms approved by the committee, at a rate of return on the deposit
22 approved by the committee and the state treasurer and by giving the lender
23 recourse against the deposit of loan repayments that are not made when due.

24 B. If the monies pledged to secure water supply development bonds
25 issued pursuant to section 49-1278 become insufficient to pay the principal
26 and interest on the water supply development bonds guaranteed by the water
27 supply development revolving fund, the authority shall direct the state
28 treasurer to liquidate securities in the fund as may be necessary and shall
29 apply those proceeds to make current all payments then due on the bonds. The
30 state treasurer shall immediately notify the attorney general and auditor
31 general of the insufficiency. The auditor general shall audit the
32 circumstances surrounding the depletion of the fund and report the findings
33 to the attorney general. The attorney general shall conduct an investigation
34 and report those findings to the governor and the legislature.

35 C. Monies in the water supply development revolving fund shall not be
36 used to provide financial assistance to a water provider, other than an
37 Indian tribe, unless one of the following applies:

38 1. The board of supervisors of the county in which the water provider
39 is located has adopted the provision authorized by section ~~11-806.01,~~
40 ~~subsection F~~ 11-823, SUBSECTION A.

41 2. The water provider is located in a city or town and the legislative
42 body of the city or town has enacted the ordinance authorized by section
43 9-463.01, subsection 0.

44 3. The water provider is located in an active management area
45 established pursuant to title 45, chapter 2, article 2.

1 Sec. 41. Retention of members

2 All persons serving as members or alternate members of a county
3 planning and zoning commission on the effective date of this act may continue
4 to serve until expiration of their normal terms.

5 Sec. 42. Conforming legislation

6 The legislative council staff shall prepare proposed legislation
7 conforming the Arizona Revised Statutes to the provisions of this act for
8 consideration in the fiftieth legislature, first regular session.

9 Sec. 43. Effective date

10 A. This act is effective from and after September 30, 2011 except as
11 provided in subsection B of this section.

12 B. Section 34-201, Arizona Revised Statutes, as amended by section 24
13 of this act, is effective from and after June 30, 2013.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.